# ENVIRONMENTAL MANAGEMENT ACT

## CHAPTER 35:05

**Act**
**3 of 2000**

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**CHAPTER 35:05**

# ENVIRONMENTAL MANAGEMENT ACT

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**CHAPTER 35:05**

# ENVIRONMENTAL MANAGEMENT ACT

3 of 2000.

**An Act to repeal and re-enact the Environmental Management Act, 1995 and to validate all acts and things done thereunder.**

Commencement.

[8TH MARCH 2000]

Preamble.

WHEREAS, the Government of the Republic of Trinidad and Tobago (hereinafter called "the Government") is committed to developing a national strategy for sustainable development, being the balance of economic growth with environmentally sound practices, in order to enhance the quality of life and meet the needs of present and future generations:

And whereas, management and conservation of the environment and the impact of environmental conditions on human health constitute a shared responsibility and benefit for everyone in the society requiring co-operation and co-ordination of public and private sector activities:

And whereas, while several public authorities and other institutions have been performing various environmental functions and services under existing laws, there is need for a co-ordinated approach to ensure the application of those laws is consistent with the Government's commitment:

And whereas, sustainable development should be encouraged through the use of economic and non-economic incentives, and polluters should be held responsible for the costs of their polluting activities:

And whereas, in furtherance of its commitment, the Government is undertaking the establishment and operation of an Environmental Management Authority to co-ordinate, facilitate and oversee execution of the national environmental strategy and programmes, to promote public awareness of environmental concerns, and to

establish an effective regulatory regime which will protect, enhance and conserve the environment:

And whereas, for the purpose of supporting and strengthening the role of the said Authority, the Government is also undertaking the establishment of the Environmental Commission which would be endowed with the power to enforce the policies and programmes of the Authority:

And whereas, it is enacted by subsection (1) of section 54 of the Constitution that Parliament may alter any of the provisions thereof:

And whereas, it is provided by subsection (2) of the said section 54 that insofar as it alters certain provisions of the Constitution a Bill for an Act of Parliament under the said section 54 shall not be passed by Parliament unless at the final vote thereon in each House it is supported by the votes of not less than two-thirds of all the members of each House:

And whereas, it is intended by this Act to alter the Constitution.

## PART I

## PRELIMINARY

Short title and alteration of the Constitution.

**1.** (1) This Act may be cited as the Environmental Management Act.

(2) This Act shall be construed as altering sections 104 to 107, 136 and 137 of the Constitution.

Interpretation.

**2.** In this Act, unless the context otherwise requires—

"air pollutant" means any pollutant released into or which otherwise has an impact on the atmosphere or climate;

"Authority" means the Environmental Management Authority established under section 6;

"Board" means the Board of Directors of the Environmental Management Authority appointed under section 6;

"Commission" means the Environmental Commission established under section 81;

"environment" means all land, area beneath the land surface, atmosphere, climate, surface, surface water, groundwater, sea, marine and coastal areas, seabed, wetlands and natural resources within the jurisdiction of Trinidad and Tobago, and "environmental" shall have the corresponding meaning;

"Environmental Officer" means any person authorised under section 33;

"environmental requirement" means any of those provisions specifically identified under section 62;

"environmentally sensitive area" means a portion of the environment so designated under section 41;

"environmentally sensitive species" means any species of living plant or animal so designated under section 41;

"Fund" means the Environmental Trust Fund established under section 72;

"governmental entity" means any—

*(a)* department of Government;

*(b)* statutory body; and

*(c)* other enterprise or institution which,

in whole or in part, is publicly funded or owned by the Government;

"handling", in relation to any hazardous substance or waste, means the manufacture, import, export, processing, treatment, packaging, storage, transportation, use, collection, disposal, or other related activities;

"hazardous substance" means any substance which, by reason of its chemical or physical properties, and based on technical, scientific and medical evidence is determined to cause through handling or from a release, harm to human health or the environment;

"inspector" means an individual appointed under section 21;

"Managing Director" means the Managing Director of the Authority appointed under section 6;

"natural resources" means the living plants, animals, organisms and other biological factors within the environment, and the geologic formations, mineral deposits, renewable and non-renewable assets, and the habitat of the living plants, animals, organisms and other biological factors;

"noise pollution" means any disturbance of the environment by a pollutant consisting of sound or other vibrations;

"person" includes any individual or any firm, business, company, enterprise, body corporate, trust, unincorporated association, partnership, or governmental entity, however constituted;

"pollutant" shall have the corresponding meaning;

"pollution" means the creation or existence of any deviation from natural conditions within the environment, which based on technical, scientific or medical evidence is determined to cause or to be likely to cause harm to human health or the environment, resulting from—

*(a)* the presence or release of any substance; or

*(b)* any other type of disturbance, whether by noise, energy, radiation, temperature variation, vibration, or objectionable odors; and

"premises" means any location within the environment, and any facility, building, process, equipment, development, or natural or man-made structure at such location, from or on which pollutants may be released or hazardous substances may be handled;

"process" means any activity associated with any premises or vehicle which is capable of releasing a pollutant or hazardous substance into the environment;

"programme" includes—

*(a)* the particular objective to be achieved by a course of action;

*(b)* the policies to be developed or implemented, and the procedures to be followed, in achieving that objective; and

*(c)* the allocation of resources and personnel directed towards giving effect to that course of action;

"release" includes any disposing, spilling, emitting, leaking, or other incidence of discharge into the environment of any hazardous substance or pollutant;

"rule" means a rule made in accordance with section 26 unless otherwise specified;

"vehicle" means any form of conveyance or transportation—

*(a)* from which pollutants may be released; or

*(b)* used for or in connection with the handling of any wastes or hazardous substances;

"waste" includes any material discarded or intended to be discarded which—

*(a)* constitutes garbage, refuse, sludge, or other solid, liquid, semi-solid or gaseous material resulting from any residential, community, commercial, industrial, manufacturing, mining, petroleum or natural gas exploration, extraction or processing, agricultural, health care, or scientific research activities; or

*(b)* is otherwise identified by the Authority as a waste under section 55;

"water pollutant" means any pollutant released into or which otherwise has an impact on the surface water, sea, groundwater, wetlands, or marine areas within the environment.

Act binds the State.

**3.** This Act binds the State.

Objects of the Act.

**4.** The objects of this Act are to—

*(a)* promote and encourage among all persons a better understanding and appreciation of the environment;

*(b)* encourage the integration of environmental concerns into private and public decisions;

*(c)* ensure the establishment of an integrated environmental management system in which the Authority, in consultation with other persons, determines priorities and facilitates co-ordination among governmental entities to effectively harmonise activities designed to protect, enhance and conserve the environment;

*(d)* develop and effectively implement written laws, policies and other programmes for and in relation to—

(i) the conservation and wise use of the environment to provide adequately for meeting the needs of present and future generations and enhancing the quality of life;

(ii) the Government's commitment to achieve economic growth in accordance with sound environmental practices;

(iii) the Government's international obligations; and

*(e)* enhance the legal, regulatory and institutional framework for environmental management.

Policy direction from the Minister.

**5.** The Minister may from time to time give the Authority directions of a special or general character in the exercise of the powers conferred and the duties imposed on the Authority by or under this Act.

## PART II

## ESTABLISHMENT AND ORGANISATION OF THE ENVIRONMENTAL MANAGEMENT AUTHORITY

Establishment, incorporation and constitution of the Authority.

**6.** (1) There is hereby established a body corporate to be known as the Environmental Management Authority, which shall be governed by a Board of Directors consisting of the persons appointed in accordance with this section.

(2) The President shall appoint—

*(a)* a Chairman;

*(b)* nine other members drawn from the following disciplines or groups, namely, environmental management, ecology, environmental health, engineering, labour, community-based organisations, business, economics, public administration, law and non-profit environmental non-governmental organisations.

(3) The Board shall appoint a Managing Director who shall be the Chief Executive Officer and an *ex officio* member.

(4) A member of the Board other than the *ex officio* member shall be appointed for a term not exceeding five years, and under such terms and conditions of service as the President may fix in the instrument of appointment.

(5) The Board shall select from among its members a Deputy Chairman.

(6) The Board shall appoint a Corporate Secretary who shall be an employee of the Authority.

(7) The Chairman may resign from office by an instrument in writing addressed to the Minister, and any other member of the Board other than the *ex officio* member may resign from office by an instrument in writing addressed to the Chairman.

(8) The President may at any time revoke the appointment of a member of the Board other than the *ex officio* member.

(9) The names of members appointed to the Board shall be published in the *Gazette* and at least one daily newspaper of general circulation.

Seal of the Authority.

**7.** (1) The Seal of the Authority shall be kept in the custody of the Chairman, the Deputy Chairman or the Secretary, as the Board may determine, and may be affixed to instruments in the presence of the Chairman, or in the Chairman's absence of the Deputy Chairman, and of the Secretary.

(2) The Seal of the Authority shall be attested by the signature of the Chairman, or in the Chairman's absence the Deputy Chairman, and the Secretary.

(3) All documents other than those required by law to be made under seal may be made by, and all decisions of the Board, may be signified under the hand of the Chairman or in the Chairman's absence, the Deputy Chairman or Secretary.

Meetings.

**8.** (1) The Board shall meet at least once in each month and at such other times, and at such place, as the Chairman determines is necessary for the efficient performance of its functions.

(2) The Chairman may at any time call a special meeting of the Board and shall call such meeting within seven days of the receipt of a requisition for that purpose addressed to the Chairman and signed by any three members of the Board.

(3) The Chairman, or in the Chairman's absence the Deputy Chairman, shall preside at all meetings of the Board, and where both the Chairman and the Deputy Chairman are for any reason unable to preside at a meeting, the members present may appoint a member to preside at that meeting.

(4) The quorum of the Board shall consist of seven members.

(5) Decisions of the Board shall be adopted by a majority of the votes and in a case in which the voting is equal, the member presiding at the meeting shall in addition to that member's original vote have a casting vote.

(6) Minutes of each meeting of the Board shall be taken in proper form and kept by the Secretary, and shall be confirmed by the Board.

(7) Subject to this section, the Board may by resolution regulate its own proceedings.

Delegation.

**9.** The Authority may, either generally or on such terms and conditions as it thinks fit, delegate any of its functions or powers to—

*(a)* the Managing Director; or

*(b)* any governmental entity.

Managing Director.

**10.** (1) The Managing Director shall be entitled to such salary, remuneration, allowances and other conditions of service—

*(a)* as the Board, with the approval of the Minister may determine; or

*(b)* in accordance with the terms or arrangements under any grant from an entity providing funding for such matters.

(2) The Managing Director shall implement the programmes of the Board.

(3) The Managing Director may, either generally or on such terms and conditions as he thinks fit, delegate to any personnel of the Authority, by instrument in writing, such of his functions or powers as he thinks fit.

Appointment of personnel.

**11.** The Authority shall appoint such personnel as it considers necessary on such terms and conditions as it thinks fit.

Limitation of personal liability.

**12.** No personal liability shall attach to any member of the Board, personnel of the Authority or Environmental Officer for—

*(a)* any act or omission of the Authority; or

*(b)* anything done, permitted to be done or omitted in good faith in the course of operations of the Authority by the Board, any personnel of the Authority or any Environmental Officer.

Committees, working groups and advisory councils.

**13.** (1) The Board may appoint such committees, working groups or advisory councils as it thinks fit to assist in the performance of its functions or to further the objects of this Act.

(2) One of the committees established by the Board shall—

*(a)* investigate, assess and report on the effectiveness of co-ordination between the Authority and other governmental entities, including the functioning of Environmental Officers, and make appropriate recommendations to the Board; and

*(b)* not later than three months after the end of each calendar year, submit a report of its operations, with recommendations to the Board.

(3) Personnel of the Authority and other governmental entities shall co-operate fully with and provide information requested by any committees, working groups or advisory councils established by the Board.

Annual report.

**14.** (1) The Chairman of the Board shall, not later than four months after the end of each calendar year, submit to the Minister an annual report which shall include—

*(a)* an assessment of the state of the environment;

*(b)* a description of the activities of the Authority during the preceding year including an assessment of the effectiveness of co-ordination between the Authority and other governmental entities and its plans and programmes for the current year;

*(c)* copies of any reports submitted by the Trustees of the Fund as required under section 80(5), including the audited annual report of the Fund;

*(d)* an accounting of any financial assistance or other support, and disclosure of the specific programmes and activities involved, with respect to matters not processed through or accounted for by the Fund, as required under section 79.

(2) The Minister shall cause a copy of any report submitted pursuant to subsection (1) to be laid before Parliament within twenty-eight days of its receipt by the Minister, or if Parliament is not then in session, within twenty-eight days of the commencement of its next session.

Guidelines to be made by the Board.

**15.** The Board may by resolution, make guidelines for its own procedure.

## PART III

## FUNCTIONS AND POWERS OF THE AUTHORITY

### FUNCTIONS

General functions of the Authority.

**16.** (1) The general functions of the Authority are to—

*(a)* make recommendations for a National Environmental Policy;

*(b)* develop and implement policies and programmes for the effective management and wise use of the environment, consistent with the objects of this Act;

*(c)* co-ordinate environmental management functions performed by persons in Trinidad and Tobago;

*(d)* make recommendations for the rationalisation of all governmental entities performing environmental functions;

*(e)* promote educational and public awareness programmes on the environment;

*(f)* develop and establish national environmental standards and criteria;

*(g)* monitor compliance with the standards criteria and programmes relating to the environment;

*(h)* take all appropriate action for the prevention and control of pollution and conservation of the environment;

*(i)* establish and co-ordinate institutional linkages locally, regionally and internationally;

*(j)* perform such other functions as are prescribed; and

*(k)* undertake anything incidental or conducive to the performance of any of the foregoing functions.

(2) In performing its functions, the Authority shall facilitate co-operation among persons and manage the environment in a manner which fosters participation and promotes consensus, including the encouragement and use of appropriate means to avoid or expeditiously resolve disputes through mechanism for alternative dispute resolution.

Information.

**17.** (1) The Authority shall compile information relating to the environment.

(2) The Authority may subject to subsections (3) and (4), make such information available to any person upon receipt of a written request and payment of the prescribed fee.

(3) When complying with a request made under subsection (2), the Authority shall not disclose or provide any information—

*(a)* that is subject to a trade secret or confidentiality claim by a person supplying the information, without the prior consent of that person; or

*(b)* if the Authority determines that disclosure of the information would compromise its enforcement programme or be contrary to the national interest.

(4) The Authority shall provide a written explanation of any refusal to make information available when requested by a person under this section.

Development of National Environmental Policy.

**18.** (1) In furtherance of section 16(1)*(a)*, the Board shall prepare and submit to the Minister, not later than two years after the commencement of this Act or such other time as the Minister may direct by Order, recommendation for a comprehensive National Environmental Policy (hereinafter called "the Policy") in accordance with the objects of this Act including—

*(a)* incorporation into the Policy of provisions which seek to encourage the establishment of institutional linkages locally, regionally and internationally to further the objects of this Act;

*(b)* an analysis of the legislative, regulatory and practical issues impacting upon the development and successful implementation of the Policy; and

*(c)* a programme for promoting the Policy and seeking an effective commitment from all groups and citizens in the society to achieve the stated objectives in the Policy.

(2) In preparing its recommendations as provided in subsection (1), the Board shall develop and submit to the Minister a report which may—

*(a)* describe the general environment and environmental conditions within Trinidad and Tobago;

*(b)* specify the general environmental quality objectives to be achieved and maintained under the Policy;

*(c)* describe the ecological and other balances required to be maintained for the conservation of natural resources and protection of the environment;

*(d)* specify the elements or areas of the environment which require special protection;

*(e)* identify specific beneficial uses of the environment to be permitted or protected by the Policy;

*(f)* describe the indicators, parameters or criteria which will be used in measuring environmental quality; and

*(g)* establish a programme by which the environmental quality objectives, balances, beneficial uses and protections referred to in the foregoing paragraphs are to be achieved and maintained.

(3) After considering the recommendations and report developed by the Board, the Minister shall cause a draft of the Policy to be—

*(a)* prepared by the Board; and

*(b)* submitted for public comment in accordance with section 28.

(4) After considering the public comments received on the draft Policy, the Board shall submit a revised draft Policy to the Minister for approval.

(5) The Policy may be revised from time to time in accordance with the procedures specified in this section.

(6) The Minister shall, within one month of the approval of any policy submitted under subsection (4), cause the policy to be laid in Parliament.

Development of Environmental Code.

**19.** (1) Within three years after the commencement of this Act or such other time as the Minister may by Order direct, the Authority shall—

*(a)* undertake a comprehensive evaluation of the written laws and various programmes which address environmental issues; and

*(b)* develop and submit to the Minister a draft Environmental Code providing for the overall consolidation, rationalisation and modernisation of such laws and programmes.

(2) When developing the draft Environmental Code, the Authority shall consider and where appropriate, seek to incorporate—

*(a)* the imposition of product charges where the product manufacturing process or usage is a significant source of pollution; and

*(b)* the adjustment of direct Government subsidies, or the establishment of tax differentiation or tax incentives, to encourage beneficial environmental activities or to ensure that pricing reflects environmental costs more adequately.

**POWERS**

General powers of the Authority.

**20.** (1) The Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of subsection (1), the Authority has power to—

*(a)* acquire information relevant for the performance of its functions;

*(b)* require the payment of charges and fees under such circumstances as may be prescribed;

*(c)* enter into contracts;

*(d)* acquire, hold and dispose of real and personal property;

*(e)* occupy, use and control any land or building owned or held under lease by any governmental entity and made available to the Authority for its purposes;

*(f)* accept gifts, devises and bequests made to the Authority whether on trust or otherwise, and act as trustee of moneys or other property vested in the Authority upon trust; and

*(g)* do anything incidental to any of its powers.

Appointment of inspectors.

**21.** (1) The Authority may by instrument in writing appoint as an inspector, any—

*(a)* personnel of the Authority;

*(b)* Environmental Officer; or

*(c)* other individual retained by the Authority,

and specify in that instrument the powers that such person may exercise as an inspector under this Act.

(2) The Authority shall cause to be issued to each inspector, an identity card in the form determined by the Board containing a photograph of the holder.

Powers of entry and inspection.

**22.** (1) Subject to subsection (2), any inspector shall, upon presentation of his identity card and reasonable evidence of his authorisation by the Authority to the occupier or person in charge of any premises or vehicle, be allowed entry into such premises or vehicle for the purpose of—

*(a)* developing or assisting in the development of any programme or standard under this Act;

*(b)* monitoring compliance with any environmental programme, standard, condition, permit, licence or requirement under this Act;

*(c)* obtaining information and samples, and confiscating any article relevant to an offence or violation; and

*(d)* carrying out any provision or requirement of this Act.

(2) An inspector shall not be permitted to enter such premises or vehicle, or obtain any information under this Part, unless—

*(a)* the occupier or the person in charge of the premises or vehicle consents to the entry; or

*(b)* where the occupier or the person in charge of the premises or vehicle does not consent, the Authority first obtains a warrant issued by a Justice of the Peace or Magistrate.

Obtaining information and samples.

**23.** (1) In the course of any entry permitted by section 22, an inspector shall, where necessary and relevant to any environmental programme, standard, condition, permit, licence or requirement under this Act, be allowed to review and copy any documents and records, take photographs, inspect any premises or vehicle, and take samples for purposes of laboratory analysis of any air, water, soil or other material from such premises or vehicle.

(2) If any samples are taken pursuant to subsection (1), the owner or operator of such premises or vehicle shall, upon request, be provided with a receipt for the sample collected which identifies the types of analyses to be performed, and a portion of the sampled material properly collected in an appropriate container.

(3) In any instance where the Authority requests any information from a person under this section, and the person asserts a claim that the information provided to the Authority should be treated as a trade secret or confidential business information, the Authority shall treat such information as confidential unless—

*(a)* the person does not disclose any valid basis for the confidentiality claim, within fourteen days after receipt of a request by the Authority; or

*(b)* the Authority determines that the public interest in disclosing the information clearly outweighs any prejudice to the person who has supplied the information to the Authority, and the Authority provides such person with a reasonable opportunity to contest such determination in the Commission prior to any public disclosure of the information.

Use of force.

**24.** If the use of force is required in executing a warrant, performing an inspection, obtaining samples or other information, or performing any other function under this Act, the inspector shall be accompanied by a police officer who shall render such reasonable assistance as may be necessary.

Emergency response activities.

**25.** Whenever the Authority reasonably believes that a release or threat of release of a pollutant or hazardous substance, or any other environmental condition, presents a threat to human health or the environment, the Authority may, after consultation with the Minister and in co-ordination with other appropriate governmental entities, undertake such emergency response activities as are required to protect human health or the environment, including—

*(a)* the remediation or restoration of environmentally degraded sites;

*(b)* the containment of any wastes, hazardous substances or environmentally dangerous conditions; and

*(c)* such other appropriate measures as may be necessary to prevent or mitigate adverse effects on human health or the environment.

## PART IV

## RULES AND PUBLIC PARTICIPATION

Rules.

**26.** The Minister may, in accordance with section 27, make Rules subject to negative resolution of Parliament, for the following:

*(a)* procedures for the registration of sources from which pollutants may be released into

the environment and the characterisation of such sources;

*(b)* the quantity, condition or concentration of pollutants or substances containing pollutants that may be released into the environment generally or by specific sources or categories of sources;

*(c)* procedures and standards with respect to permits or licences required for a person to install or operate any process or other source from which pollutants will be or may continue to be released into the environment;

*(d)* the form and manner of —

(i) applying for any licence, permit or certification that may be required or granted by the Authority;

(ii) revoking, suspending, varying or cancelling a permit or licence or a condition in that permit or licence;

*(e)* procedures, standards and guidelines for the formal designation and protection of "environmentally sensitive areas" or "environmentally sensitive species" under section 41;

*(f)* incentive programmes or mechanisms which encourage the use of effective environmental systems and the achievement of improvements in environmental quality, as provided in section 34;

*(g)* designation of hazardous substances or categories of hazardous substances under section 59, and the performance standards, procedures, safeguards and licensing or permitting requirements in accordance with which such hazardous substances shall be handled;

*(h)* the procedure to be followed by any person required to apply for and receive a certificate of

environmental clearance, and the standards for preparation and submission of any environmental impact assessment which may be required under sections 35 to 38 inclusive;

*(i)* the definition of various categories of waste under sections 55 to 57 inclusive, the requirements with respect to the handling and disposal of such categories of waste, and the licensing of facilities at which such wastes are handled or disposed;

*(j)* procedures and standards for the periodic or continual monitoring of pollutant releases in conjunction with any process, activity, vehicle or premises;

*(k)* the establishment of ambient environmental quality criteria and standards which may be taken into account in setting any general, categorical or source-specific limitations under paragraph *(b)* for any new or continued release of pollutants into the environment;

*(l)* the design, construction, operation, maintenance and monitoring of facilities or processes for the control of pollution and the handling of wastes; and

*(m)* any other matter required to be, or which may be prescribed by the Authority.

Rule-making process.

**27.** (1) In the course of developing Rules, the Minister shall—

*(a)* submit draft Rules for public comment in accordance with section 28;

*(b)* consider the public comments received and revise the Rules as he thinks fit;

*(c)* cause the Rules to be published in the *Gazette* and laid thereafter in Parliament.

(2) Any Rules made by the Minister shall become effective when the Rules are published in the *Gazette* or at such later time as may be specified in the Rules.

Public comment procedure.

**28.** (1) Where a provision of this Act specifically requires compliance with this section, the Authority shall—

*(a)* publish a notice of the proposed action in the *Gazette* and at least one daily newspaper of general circulation—

(i) advising of the matter being submitted for public comment, including a general description of the matter under consideration;

(ii) identifying the location or locations where the administrative record is being maintained;

(iii) stating the length of the public comment period; and

(iv) advising where the comments are to be sent;

*(b)* establish and maintain an administrative record regarding the proposed action and make such administrative record available to the public at one or more locations.

(2) The administrative record required under subsection (1) shall include a written description of the proposed action, the major environmental issues involved in the matter under consideration, copies of documents or other supporting materials which the Authority believes would assist the public in developing a reasonable understanding of those issues, and a statement of the Authority's reasons for the proposed action.

(3) The Authority shall receive written comments for not less than thirty days from the date of notice in the *Gazette* and, if the Authority determines there is sufficient public interest, it may hold a public hearing for discussing the proposed action and receiving verbal comments.

Preservation of administrative record.

**29.** The Authority shall keep available at the public locations, for not less than forty-five days after publication of notice of the final action in the *Gazette*, the administrative record, together with

copies of documents constituting the final action, a response to the public comments and an identification of the basis for the final action.

Jurisdiction and standard for appeal.

**30.** (1) Where the appeal of an action submitted for public comment in accordance with section 28 is provided for under this Act, the action may be appealed to the Commission by any interested person on the ground that the Authority failed to comply with the requirement for public participation in section 28.

(2) For the purposes of subsection (1), "interested person" means any person who submitted a written comment on the proposed action during the public comment period.

## PART V

## ENVIRONMENTAL MANAGEMENT

### GENERAL

Compliance with National Environmental Policy.

**31.** The Authority and all other governmental entities shall conduct their operations and programmes in accordance with the National Environmental Policy established under section 18.

Arrangements with governmental entities.

**32.** (1) The Authority shall, not later than three months after the commencement of this Act, initiate consultation with the other governmental entities performing various environmental management functions, with the objective of formulating Memoranda of Understanding or other arrangements between the Authority and such other governmental entities, which shall establish the mechanisms for co-ordination across jurisdictional lines and provide for the implementation of integrated environmental management programmes.

(2) Memoranda of Understanding or other arrangements developed under subsection (1), and any other such arrangements developed thereafter, may be amended from time to time in order to further the objects of this Act.

Environmental Officers.

**33.** (1) The Authority may, in co-ordination with other governmental entities whose personnel may be affected and pursuant to an arrangement as provided in section 32, authorise

Environmental Officers from among those individuals employed within such governmental entities.

(2) Environmental Officers may be authorised, by instrument in writing signed by the Managing Director, to—

*(a)* assist in maintaining intra-governmental co-ordination, communication and institutional linkages for the development, integration and effective implementation of the various policies, laws, Regulations, Rules, guidelines, programmes and other activities designed to protect and conserve the environment; and

*(b)* carry out on the Authority's behalf such functions as may be agreed to between the Authority and the other governmental entity.

Environmental incentive programmes.

**34.** (1) The Authority shall develop, promote and implement appropriate incentive programmes which encourage the voluntary use of effective environmental management systems and the achievement of improvements in enviromental quality, including—

*(a)* the establishment of a voluntary facility environmental audit programme which allows for the exercise of enforcement discretion by the Authority with respect to liability which might otherwise arise, if an offence or violation is detected as a result of such an audit programme and voluntarily disclosed to the Authority;

*(b)* the establishment of environmental certification or labelling programmes which allow the Authority to distinguish or designate specific persons, activities or products which the Authority certifies as demonstrating or representing significant environmental management qualities;

*(c)* the operation of deposit-refund systems for specified materials to increase the level of recycling, reuse or other authorised disposition; and

*(d)* any other programmes or mechanisms which may further the objects of this Act.

(2) With the approval of the Minister, the Authority may impose pollution charges or user fees to encourage the protection and conservation of the environment.

(3) For the purposes of this section, "facility environmental audit programme" means a comprehensive investigation and evaluation system designed and implemented at a facility for the purpose of—

*(a)* detecting and preventing violations of environmental requirements or the commission of offences under this Act; and

*(b)* identifying opportunities for achieving improvements in environmental programmes at the facility.

**ASSESSMENT OF ENVIRONMENTAL IMPACTS**

Certificate of environmental clearance.

**35.** (1) For the purpose of determining the environmental impact which might arise out of any new or significantly modified construction, process, works or other activity, the Minister may by Order subject to negative resolution of Parliament designate a list of activities requiring a certificate of environmental clearance (hereinafter called "Certificate").

(2) No person shall proceed with any activity which the Minister has designated as requiring a Certificate unless such person applies for and receives a Certificate from the Authority.

(3) An application made under this section shall be made in accordance with the manner prescribed.

(4) The Authority in considering the application may ask for further information including, if required, an environmental impact assessment, in accordance with the procedure prescribed.

(5) Any application which requires the preparation of an environment impact assessment shall be submitted for public comment in accordance with section 28 before any Certificate is issued by the Authority.

Issue or refusal of Certificate.

**36.** (1) After considering all relevant matters, including the comments or representations made during the public comment

period, the Authority may issue a Certificate subject to such terms and conditions as it thinks fit, including the requirement to undertake appropriate mitigation measures.

(2) Where the Authority refuses to issue a Certificate, it shall provide to the applicant in writing its reasons for such action.

Monitoring.

**37.** The Authority shall monitor the performance of the activity to ensure compliance with any conditions in the Certificate, and to confirm that the performance of the activity is consistent with—

*(a)* the description provided in the application for a Certificate; and

*(b)* the information provided in any environmental impact assessment.

Relationship with other governmental entities. Ch. 35:01.

**38.** (1) Where an activity designated under subsection 35(1) constitutes a development requiring the express grant of permission under the Town and Country Planning Act, the developer shall deal directly with the entity responsible for town and country planning with respect to the application for a Certificate and any environmental impact assessment which may be required.

(2) If the approval of any other entity is required under a written law with respect to the proposed activity, the issue of a Certificate shall not affect in any way the requirement to obtain such other approval before the proposed activity may proceed.

(3) In any instance where the Authority determines that an environmental impact assessment is required for an activity at any location, no other entity shall grant any permit, licence, or other documentary authorisation with respect to such activity, until a Certificate has been issued by the Authority.

Exceptions.

**39.** Sections 35 to 38 inclusive shall not apply to—

*(a)* any activity with respect to which, prior to the date on which review under this section first became applicable, all final approvals necessary to proceed already had been obtained from all other governmental entities requiring such approvals; and

*(b)* any activity with respect to which, prior to the effective date on which review under this section first became applicable, outline planning permission or full planning permission under the Town and Country Planning Act had already been obtained.

Ch. 35:01.

Appeals.

**40.** Any final decision by the Authority to refuse issuance of a Certificate or to issue a certificate with conditions may be appealed to the Commission by the person seeking such Certificate.

**PROTECTION OF NATURAL RESOURCES**

Designation of environmentally sensitive areas and species.

**41.** (1) The Authority may prescribe in accordance with section 26*(e)* the designation of a defined portion of the environment within Trinidad and Tobago as an "environmentally sensitive area", or of any species of living plant or animal as an "environmentally sensitive species", requiring special protection to achieve the objects of this Act.

(2) For the purpose of subsection (1), designation shall be made by Notice published in the *Gazette*.

Notice of proposed action.

**42.** In pursuance of section 41(1), the Notice shall include—

*(a)* a comprehensive description of the area or species to be so designated;

*(b)* the reasons for such designation; and

*(c)* the specific limitations on use of or activities within such area or with regard to such species which are required to adequately protect the identified environmental concerns.

Control and management.

**43.** Any designation of an "environmentally sensitive area" or "environmentally sensitive species"—

*(a)* may permit the wise use of such area or species and provide for the undertaking of appropriate mitigation measures, but shall not otherwise be deemed to authorise or permit any activity not previously authorised or permitted with respect to such area or species; and

*(b)* shall only require compliance with the specific limitations on use or activities specified in the designation.

Exception.

**44.** Sections 41 to 43 shall not apply to any activity with respect to which, prior to the date of designation of an "environmentally sensitive area" or "environmentally sensitive species", all final approvals necessary to proceed had already been obtained from or for which application had been made to all governmental entities requiring such approvals.

Co-ordination.

**45.** For the purposes of sections 41 to 43 inclusive, the Authority shall co-ordinate with any governmental entities having responsibility for planning and management in such areas or with respect to such species.

Appeal.

**46.** Any final action designating an "environmentally sensitive area" or "environmentally sensitive species" shall be capable of appeal to the Commission.

**POLLUTION AND HAZARDOUS SUBSTANCES**

Record-keeping and monitoring requirements.

**47.** The Authority may, as prescribed by Rules, require any person who releases a pollutant from any premises or vehicle, or who engages in the handling of any hazardous substance, on a one-time or periodic basis to—

*(a)* sample and analyse such pollutant or hazardous substance, or material which has become contaminated with such pollutant or hazardous substance, for specified constituents or characteristics;

*(b)* install, use and maintain such monitoring equipment, and implement such environmental audit procedures, as may be specified in any permit or licence issued pursuant to this Act;

*(c)* establish and maintain records regarding such sampling, monitoring and environmental auditing activities;

*(d)* establish and maintain records regarding pollution control equipment on the premises (including

records on control equipment parameters, production variables and other indirect data when direct monitoring is not required);

*(e)* submit reports and compliance certifications; and

*(f)* provide such other information as the Authority may require.

General permit conditions.

**48.** (1) Where an application is made under section 50(3), 53(3), 57(4) or 60(2) for the grant of a permit or licence under section 50(1), 53(1), 57(1) or 60(1), respectively, and the Authority requires further information for the purpose of dealing with the application, the Authority may require the person to provide results of research or analysis to be undertaken by such person.

(2) The Authority may, as prescribed by Rules, revoke, suspend, vary or cancel any provision in such permit or licence where the Authority determines such action is necessary.

(3) Any conditions imposed in respect of a permit, or a revocation, suspension, variation or cancellation takes effect when notice is served on the holder of the permit or such later time as the Authority may direct in the notice.

(4) Any such revocation, suspension, variation or cancellation of a permit or licence shall be capable of appeal to the Commission by the permit or licence holder.

**AIR AND NOISE POLLUTION**

Management of air and noise pollution.

**49.** (1) The Authority shall, as soon as practicable after the commencement of this Act, investigate the environment generally and such premises and vehicles as it thinks necessary for the purpose of—

*(a)* ascertaining the extent of air and noise pollution and the significant sources of pollutants which by their release cause or contribute to such pollution; and

*(b)* characterising or describing that pollution.

(2) The Authority shall cause a register of air and noise pollutants to be maintained as prescribed by Rules, which shall

contain data identifying the quantity, conditions or concentrations relevant to the identification of each pollutant.

(3) The Authority shall develop and implement a programme for the management of such pollution which shall include the registration and further characterisation of significant sources of any ongoing or intermittent releases of air or noise pollutants into the environment.

Air pollution permits.

**50.** (1) The Authority may require and grant permits to authorise any process releasing air pollutants subject to such terms and conditions as it thinks fit.

(2) The terms and conditions of a permit may relate to the design, construction, operation, maintenance and monitoring of the facility and processes releasing air pollutants.

(3) A person shall apply to the Authority for the grant of an Air Pollution Permit in accordance with the form as determined by the Authority.

Prohibited air and noise pollution.

**51.** (1) No person shall release or cause to be released any air pollutant into the environment which is in violation of any applicable standards, conditions or permit requirements under this Act.

(2) No person shall emit or cause to be emitted any noise greater in volume or intensity than prescribed in Rules made under section 26 or by any applicable standards, conditions or requirements under this Act.

**WATER POLLUTION**

Management of water pollution.

**52.** (1) The Authority shall, as soon as practicable after the commencement of this Act, investigate the environment generally and such premises and vehicles as it thinks necessary for the purposes of—

*(a)* ascertaining the extent of water pollution and significant sources of water pollutants; and

*(b)* characterising or describing that pollution.

(2) The Authority shall cause a register of water pollutants to be maintained as prescribed by Rules, which shall contain data identifying the quantity, conditions or concentrations relevant to the identification of each pollutants.

(3) The Authority shall develop and implement a programme for the management of such pollution which shall include the registration and further characterisation of significant sources of any ongoing or intermittent releases of water pollutants into the environment.

Water pollution permits.

**53.** (1) The Authority may require and grant permits to authorise any process releasing water pollutants subject to such terms and conditions as it thinks fit.

(2) The terms and conditions of a permit may relate to the design, construction, operation, maintenance and monitoring of the facilities and processes releasing water pollutants.

(3) A person shall apply to the Authority for the grant of a water pollution permit in accordance with the form as determined by the Authority.

Prohibiting water pollution.

**54.** No person shall release or cause to be released any water pollutant into the environment which is in violation of any applicable standards, conditions or permit requirements under this Act.

**WASTES**

Waste management.

**55.** (1) The Authority shall, as soon as practicable after the commencement of this Act, investigate the environment generally and such premises and vehicles as it thinks necessary for the purposes of—

*(a)* ascertaining the volume and nature of wastes which are handled and disposed into the environment; and

*(b)* identifying and characterising the different categories and the significant sources of such wastes.

(2) The Authority shall develop and implement a programme for the management of such wastes which may include the registration and further characterisation of significant sources of wastes being disposed into the environment.

Identification of hazardous wastes.

**56.** The Authority shall as soon as practicable after the commencement of this Act, submit to the Minister a programme to define those wastes which should be deemed "hazardous wastes", to establish requirements for the handling and disposal of hazardous wastes, to establish appropriate standards and design criteria for hazardous waste-handling and disposal facilities, and to establish licensing and permitting requirements with respect to such wastes.

Waste permits and licences.

**57.** (1) The Authority may require and grant a permit to authorise any person's waste disposal activities, or licences for the operation of any waste-handling facility, subject to such terms and conditions as it thinks fit.

(2) The terms and conditions of a licence under this section may relate to the design, construction, operation, maintenance and monitoring of any waste-handling facility.

(3) The terms and conditions of a permit under this section may relate to a person's handling of any waste.

(4) A person shall apply to the Authority for the grant of such licence or permit as prescribed by Rules.

Waste prohibitions.

**58.** No person shall handle or dispose of any waste or hazardous waste in a manner which is in violation of any applicable licence, permit, standards, conditions or requirements under this Act.

**HAZARDOUS SUBSTANCES AND SPILLS**

Management of hazardous substances.

**59.** The Authority shall, as soon as practicable after the commencement of this Act, submit to the Minister a programme for the designation of specific hazardous substances and performance standards and procedures for the safe handling of such hazardous substances.

Hazardous substance prohibitions.

**60.** (1) After final designation of such specific hazardous substances and the establishment of the performance standards

and procedures under section 26, a person shall not handle, or cause to be handled by any other person through contract, agreement or other arrangement, any hazardous substance except in accordance with—

*(a)* such performance standards and procedures; or

*(b)* a licence or permit granted by the Authority.

(2) A person shall apply to the Authority for the grant of a licence or permit as prescribed by Rules.

Notification of spills, releases and other incidents.

**61.** (1) As soon as practicable after the commencement of this Act, and thereafter as appropriate, the Authority shall investigate and designate categories of circumstances involving accidental spills or other releases of pollutants, or other incidents with respect to hazardous substances, which may present a risk to human health or the environment.

(2) The designation of such categories by the Authority shall be submitted for public comment in accordance with section 28.

(3) After the final designation of any categories under this section, any person in charge of any premises or vehicle shall, as soon as he has knowledge of a release or other incident referred to in this section associated with such premises or vehicle, notify the Authority of such release or incident and provide to the Authority—

*(a)* a brief description of the release or incident;

*(b)* an assessment of any damages or potential risks to human health or the environment associated with the release or incident;

*(c)* a description of the response measures taken and to be taken to address and otherwise mitigate damages or contamination resulting from the release or incident.

(4) The Authority shall investigate and evaluate any such release or incident as it thinks fit, and may—

*(a)* respond to the release or incident as authorised under section 25; and

*(b)* develop and implement appropriate environmental programmes, standards, conditions, permits, licences or requirements designed to avoid such releases or incidents in the future.

## PART VI

## COMPLIANCE AND ENFORCEMENT

Environmental requirements. Part VIII.

**62.** For the purposes of this Part and Part VIII, "environmental requirement" means the requirement upon a person to—

*(a)* comply with the procedures for the registration of sources from which pollutants may be released into the environment;

*(b)* comply with the procedures and standards with respect to permits or licences required for any person to install or operate any process or source from which pollutants will be or may continue to be released into the environment;

*(c)* provide in a timely manner complete and accurate information in any required submission to or communication with the Authority or in response to any inspection or request for information by the Authority;

*(d)* refrain from any unauthorised activities impacting on the environment in an "environmentally sensitive area" or with respect to an "environmentally sensitive species";

*(e)* comply with the performance standards, procedures, licensing or permitting requirements established for the handling of hazardous substances;

*(f)* apply for and obtain a Certificate of Environmental Clearance;

*(g)* comply with the conditions and mitigation measures in any such certificate;

*(h)* comply with the procedures and standards with respect to the periodic or continual monitoring of pollution or releases of pollutants or conditions required under a permit or licence;

*(i)* provide timely and accurate notification with respect to an accidental or unauthorised release of a pollutant or other incident with respect to a hazardous substance;

*(j)* control the release of pollutants in such a manner as to comply with any permit or licence granted under section 50(1), 53(1), 57(1) or 60(1);

*(k)* submit timely payment of required fees or charges payable to the Authority; and

*(l)* comply with all other procedures, standards, programmes and requirements in such a manner as may be prescribed by Rules or Regulations.

Notice of violation.

**63.** (1) Where the Authority reasonably believes that a person is in violation of an environmental requirement, the Authority shall serve a written notice of violation (hereinafter called "Notice") on such person in a form determined by the Board, which shall include—

*(a)* a request that the person make such modifications to the activity within a specified time, as may be required to allow the continuation of the activity; or

*(b)* an invitation to the person to make representations to the Authority concerning the matters specified in the Notice within a specified time.

(2) Where a matter specified in the Notice may be satisfactorily explained or otherwise resolved between the person and the Authority—

*(a)* the Authority may cancel the Notice or dismiss the matters specified in the Notice; or

*(b)* an agreed resolution may be reduced in writing into a Consent Agreement.

Issue of Administrative Order.

**64.** The Authority may issue an Administrative Order under section 65 where the person—

*(a)* fails to make representations to the Authority within the time specified in the Notice; or

*(b)* is unable to resolve with the Authority all matters specified in the Notice.

Administrative Orders.

**65.** (1) An Administrative Order served by the Authority shall, where appropriate—

*(a)* specify details of the violation of one or more environmental requirements;

*(b)* direct the person to immediately cease and desist from the violation or specify a date for coming into compliance;

*(c)* direct the person to immediately remedy any environmental conditions or damages to the environment arising out of the violation or specify a date by which such remedial activities shall be completed;

*(d)* direct the person to undertake an investigation regarding any environmental circumstances or conditions within such person's responsibility or control, including any release of a pollutant into the environment or the handling of any hazardous substance;

*(e)* direct the person to perform any monitoring or record-keeping activities which may be required under section 47;

*(f)* include a proposed administrative civil assessment made by the Authority;

*(g)* direct a person to comply with any other requirement under this Act.

(2) Directives contained in an Administrative Order served upon a person shall be deemed final and conclusive

after the expiry of twenty-eight days, unless within such period the person—

*(a)* appeals the Administrative Order to the Commission;

*(b)* reaches an agreement with the Authority which is reduced in writing into a Consent Agreement; or

*(c)* obtains an extension of time from the Authority which is confirmed in writing.

(3) Any Administrative Order shall contain a notice advising of the matters in subsection (2).

Administrative civil assessment.

**66.** (1) For the purposes of sections 65 and 81(5)*(d)*, the Authority or the Commission may make an administrative civil assessment of—

*(a)* compensation for actual costs incurred by the Authority to respond to environmental conditions or other circumstances arising out of the violation referenced in the Administrative Order;

*(b)* compensation for damages to the environment associated with public lands or holdings which arise out of the violation referenced in the Administrative Order;

*(c)* damages for any economic benefit or amount saved by a person through failure to comply with applicable environmental requirements; and

*(d)* damages for the failure of a person to comply with applicable environmental requirements, in an amount determined pursuant to subsections (2) and (3).

(2) In determining the amount of any damages to be assessed under subsections (1)*(c)* and *(d)*, the Authority or the Commission shall take into account—

*(a)* the nature, circumstances, extent and gravity of the violation;

*(b)* any history of prior violations; and

*(c)* the degree of willfulness or culpability in committing the violation and any good faith efforts to co-operate with the Authority.

(3) The total amount of any damages under subsection (1)*(d)*, shall not exceed—

*(a)* for an individual, five thousand dollars for each violation and, in the case of continuing or recurrent violation, one thousand dollars per day for each such instance until the violation is remedied or abated; or

*(b)* for a person other than an individual, ten thousand dollars for each violation and, in the case of continuing or recurrent violations, five thousand dollars per day for each such instance until the violation is remedied or abated.

Application for enforcement.

**67.** (1) The Authority may file any Consent Agreement or final Administrative Order and an application for enforcement with the Commission.

(2) Where an Administrative Order contains a proposed administrative civil assessment, that assessment is not enforceable until such time as the Commission makes an Order determining the amount of such assessment.

Other actions by the Authority.

**68.** Whenever the Authority reasonably believes that any person is currently in violation of any environmental requirement, or is engaged in any activity which is likely to result in a violation of any environmental requirement, the Authority may in addition to, or in lieu of, other actions authorised under this Act—

*(a)* seek a restraining order or other injunctive or equitable relief, to prohibit the continued violation or prevent the activity which will likely lead to a violation;

*(b)* seek an order for the closure of any facility or a prohibition against the continued operation of

any processes or equipment at such facility in order to halt or prevent any violation; or

*(c)* pursue any other remedy which may be provided by law.

Direct private party actions.

***69.** (1) Any private party may institute a civil action in the Commission against any other person for a claimed violation of any of the specified environmental requirements identified in section 62, other than paragraphs *(c)*, *(d)* and *(l)*, save where—

*(a)* the complainant has given written notice of such claimed violation to the Managing Director of the Authority at least sixty days prior to the commencement of the civil action;

*(b)* the complainant has served a copy of the complaint on the Managing Director within twenty-eight days of the date on which the complainant was first authorised to bring such an action.

*(c)* the Authority has not commenced an enforcement action under sections 63 to 67 inclusive or through other appropriate means available to it under section 68 regarding such claimed violation; and

*(d)* the Authority has not elected to assume responsibility for taking enforcement action under sections 63 to 68 inclusive within sixty days after the filing of a direct private party action by the complainant.

(2) For purposes of this section, any individual or group of individuals expressing a general interest in the environment or a specific concern with respect to the claimed violation shall be deemed to have standing to bring a direct private party action.

(3) In any such action under this section, the Authority or the Attorney General may intervene at any time as a matter of right.

* This section came into force on 1st July 2001.

Criminal offence for knowing or reckless endangerment.

**70.** (1) Any person who through the release or handling of any pollutant or hazardous substance, or the arrangement for another person through any contract or other agreement to release or handle any pollutant or hazardous substance, knowingly or recklessly endangers human life or health, commits an offence, and is liable on conviction on indictment, to a fine of one hundred thousand dollars and imprisonment for two years.

(2) Any person who knowingly or recklessly undertakes or conspires to allow any activity in an "environmentally sensitive area" or with respect to an "environmentally sensitive species" designated under section 41, which may have an adverse impact on the environment within such area or on such species, commits an offence and is liable, on conviction on indictment, to a fine of one hundred thousand dollars and imprisonment for two years.

(3) A complaint for any offence under this section shall be made within three years from the commencement of this Act, or from the time when an action giving rise to such offence is first discovered by the Authority.

(4) For the purposes of this section, endangerment of human life or health means placing one or more persons in danger of death or serious bodily injury, including unconsciousness, extreme pain, or physical or mental impairment.

(5) Any action under this section may be in addition to any other action taken by the Authority under this Part.

Liability of private and public officials.

**71.** Where a violation of any environmental requirement has been committed by a person (other than an individual), any individual who at the time of the violation was a director, manager, supervisor, partner or other similar officer or responsible individual, or who was purporting to act in such capacity, may be found individually liable for that violation if, having regard to the nature of his functions in that capacity, the resources within his control or discretion, and his reasonable ability to prevent the violation—

*(a)* the violation was committed with his direct consent or connivance; or

*(b)* he, with knowledge, did not exercise reasonable diligence to prevent the commission of the violation.

**PART VII**

**ENVIRONMENTAL TRUST FUND AND FINANCES**

Establishment and purposes of the Fund.

**72.** There is hereby established an Environmental Trust Fund which shall be used to fund the operations of the Authority and for other purposes authorised under this Act, including—

*(a)* incentive measures for reducing environmental pollution, protecting the environment and conserving natural resources;

*(b)* demonstration projects of innovative technologies which reduce pollution, or which reduce or eliminate the use of hazardous substances or the generation of wastes;

*(c)* emergency response activities to address actual or potential threats to human health or the environment, including remediation or restoration of environmentally degraded sites, containment of any wastes, hazardous substances or other environmentally dangerous conditions, or other appropriate precautionary measures to prevent significant adverse effects on human health or the environment; and

*(d)* public awareness and education programmes to enhance the understanding of environmental protection and natural resource management issues within Trinidad and Tobago.

Trustees for the Fund.

**73.** (1) Five members of the Board of Directors of the Authority (other than the Managing Director) shall be designated by the President to act as Trustees for the Fund and shall be responsible for its administration.

(2) Service as a Trustee shall terminate automatically at such time as a Trustee ceases to be a member of the Board.

Resources of the Fund.

**74.** The resources of the Fund shall consist of—

*(a)* such amounts as may be appropriated annually or for special purposes by Parliament for the use and operations of the Authority;

*(b)* such amounts which the Authority may collect as payments for services rendered, fees due regarding permits, applications or licences under this Act, fees due for the review and processing of applications for a Certificate of Environmental Clearance and any environmental impact assessments required under section 35, fees charged for the reasonable cost of providing environmental information to interested persons, or fees due from the users of properties under the administration and control of the Authority;

*(c)* such amounts which are provided to the Authority or the Government of the Republic of Trinidad and Tobago by foreign States, international organisations, multilateral or bilateral lending agencies, private individuals, foundations, corporations or other entities to further the objects of the Act and the National Environmental Policy under section 18;

*(d)* such amounts borrowed by the Authority consistent with section 77; and

*(e)* any other sums or amounts to which the Fund may make a lawful claim.

Investment of Fund monies.

**75.** (1) All monies which comprise the Fund and which do not have to be used immediately to defray expenses as provided for in section 78, shall be invested in such a manner as the Trustees consider fit which is designed to preserve the principal and achieve a reasonable rate of return and such investments shall be approved either generally or specifically by the Board.

(2) The Trustees shall possess the authority necessary, either directly or through authorised agents, to undertake such

investments as are authorised under subsection (1), including the power to buy and sell such securities or other obligations as the Board determines to be appropriate.

Exemption from taxes.

**76.** The Fund and the Authority shall be exempted from stamp duty, corporation tax, Customs duties, value added taxes, motor vehicle taxes, fees, charges, assessments, levies and imposts on any income or profits or on assets which are acquired for use by the Fund or the Authority.

Borrowing by the Fund.

**77.** (1) Subject to subsection (2), the Authority may borrow any money required by it, for the efficient exercise of its functions or for meeting its obligations.

(2) Borrowing may be effected only with the approval of the Minister to whom responsibility for finance is assigned as to the amount, the sources of borrowing, and the terms and conditions of the loan, and may be either general or limited to a particular transaction and may be either unconditional or subject to conditions.

(3) The Authority may not pledge its assets as security for any loan without the written approval of the Minister to whom responsibility for the environment is assigned.

(4) The Authority is a statutory authority for the purposes of the Guarantee of Loans (Statutory Authorities) Act.

Ch. 71:81.

Use of Fund moneys.

**78.** (1) Contributions to the Fund may be designated for specific projects or made subject to specific conditions, in which case such contributions shall be preserved and utilised solely for the designated purpose. In all other instances, the trustees are authorised to pay for any of the following matters out of the general resources of the Fund:

*(a)* the operating expenses of the Authority including the remuneration of members and personnel thereof;

*(b)* the capital expenses including maintenance and insurance of the property under the administration and control of the Authority;

*(c)* any payment toward the purchase of real property by the Authority to further the objects of this Act; and

*(d)* any other expenses which are lawfully related to the activities of the Authority.

(2) While funding for the Authority generally shall be processed through the Fund, the Authority also shall be authorised to receive and utilise direct financial assistance or other support for specific projects or activities which will not be processed through or accounted for by the Fund, where such method of financial management is required as a condition established by an entity providing support to the Authority.

(3) Any sums of money recovered against the Authority for an action of the Authority, its personnel or any Environmental Officer acting in good faith in the course of the operations of the Authority shall be paid out of the Fund.

Finances of the Authority.

**79.** (1) All salaries and direct expenses of the Authority shall be paid out of the Fund or in accordance with any grant or arrangement made with any entity providing funding for such matters.

(2) The Authority shall cause to be kept proper accounts and records of its transactions and financial affairs.

(3) In the event conditions attached to financial assistance or other support for specific programmes or activities require that such assistance or support be processed otherwise than through the Fund, the Authority shall—

*(a)* maintain a proper audited accounting system; and

*(b)* disclose such matters in its annual report as required under section 14.

(4) The Authority shall, not later than the first day of July in each year prepare and submit to the Minister the estimates of revenue, other financial resources and expenditures of the Authority for the next financial year in such form as the Minister may direct.

(5) All moneys collected by the Authority by way of an administrative civil assessment under section 66 shall be deposited with the Comptroller of Accounts for the account of the Consolidated Fund.

Financial accounting by the Trustees.

**80.** (1) The Board may, by resolution, make rules for the system of accounting for the finances of the Fund, consistent with the best commercial accounting and financial standards.

Ch. 69:01.

(2) The Trustees shall keep proper accounts and other records in respect of the Fund in accordance with the Exchequer and Audit Act, and the Fund shall be audited annually by the Auditor General or by an auditor appointed in each year by the Board of Directors with the written consent of the Auditor General.

(3) The Trustees of the Fund shall, not later than three months after the end of each financial year, submit to the Board of Directors a report dealing generally with the proceedings and policies of the Fund during the preceding financial year and also containing financial statements and any other information relating to the Fund and its support of activities through the Authority as may be requested by the Board.

(4) The financial year of the Fund shall be 1st October to 31st September in each year.

(5) The Chairman of the Board shall submit to the Minister a copy of every report submitted under this section.

## PART VIII

## ESTABLISHMENT AND JURISDICTION OF ENVIRONMENTAL COMMISSION

Establishment and jurisdiction of Commission.

**81.** (1) A Tribunal to be known as the Environmental Commission is hereby established for the purpose of exercising the jurisdiction conferred upon it by this Act or by any other written law.

(2) The Commission shall consist of a Chairman and such other members, including a Deputy Chairman, as may be appointed under or in pursuance of section 82.

(3) The Commission shall be a Superior Court of record and have an official Seal which shall be judicially noticed, and shall have in addition to the jurisdiction and powers conferred on it by this Act, all the powers inherent in such a Court.

(4) The Commission shall have the power to enforce its own orders and judgments, and the same power to punish contempts as the High Court of Justice.

(5) The Commission shall have jurisdiction to hear and determine—

*(a)* appeals from decisions or actions of the Authority as specifically authorised under this Act;

*(b)* applications for deferment of decisions made under section 25 or deferment of designations made under section 41;

*(c)* applications by the Authority for the enforcement of any Consent Agreement or any final Administrative Order, as provided in section 67;

*(d)* administrative civil assessments under section 66;

*(e)* appeals from the designation of "environmentally sensitive areas or environmentally sensitive species" by the Authority pursuant to section 41;

*(f)* appeals from a decision by the Authority under section 36 to refuse to issue a Certificate of environmental clearance or to grant such a Certificate with conditions;

*(g)* appeals from any determination by the Authority to disclose information or materials claimed as a trade secret or confidential business information under section 23(3);

*(h)* complaints brought by persons pursuant to section 69, otherwise known as the direct private party action provision; and

*(i)* such other matters as may be prescribed by or arise under this Act or any other written law where jurisdiction in the Commission is specifically provided.

(6) A Registrar of the Commission and such other officers, clerks and employees as may be required to carry out the business of the Commission shall be appointed in the manner authorised by the law.

Constitution of Commission.

**82.** (1) The Commission shall be comprised of a full-time Chairman, and five other members including a Deputy Chairman each of whom may be appointed to serve in a full-time, part-time or periodic capacity as may be required to fulfill the objects of this Act.

(2) The Chairman and Deputy Chairman of the Commission shall each be an Attorney-at-law of not less than ten years standing, and shall be appointed by the President.

(3) The members of the Commission, other than the Chairman and Deputy Chairman, shall be appointed by the President from among such persons as appear to the President to be qualified by virtue of their knowledge of, or experience in environmental issues, engineering, the natural sciences or the social sciences.

(4) All members of the Commission shall hold office under such requirements and conditions of service and for such term, not less than three years, as may be determined by the President and set forth in the terms of reference at the time of their appointment, and shall be eligible for reappointment.

(5) Notwithstanding that his term of office has expired, any member of the Commission may, with the permission of the President acting on the advice of the Chairman of the Commission, continue in office for such a period after the expiry of his term, as may be necessary to deliver judgment, or to do any other thing in relation to proceedings that were commenced before such member prior to the expiry of his term of office.

(6) Any member of the Commission may, at any time by notice in writing to the President, resign his office.

(7) The President may remove from office any member of the Commission for inability, misbehaviour or on the ground of

any employment or interest which is incompatible with the functions of a member of the Commission.

(8) Where any member of the Commission is ill, or otherwise unable to act, or where his office is vacant, the President may appoint a person to act in the stead of such member during his illness or incapability or until the office is filled, as the case may be.

(9) No defect in the qualifications or appointment of any member of the Commission shall vitiate any proceedings thereof.

Salary, allowances and conditions of service.

**83.** (1) There shall be paid to each member of the Commission, and to a person appointed to act in or perform the functions of any member of the Commission, such salary or remuneration and such allowances as may be prescribed by Order of the President and such salary or remuneration and allowances shall be a charge on the Consolidated Fund.

(2) Such other conditions of service shall be applicable to the Chairman, Deputy Chairman and other members of the commission as may be prescribed by Order of the President.

(3) The salary, remuneration, allowances and the other conditions of service of the Chairman, Deputy Chairman and of any other member of the Commission shall not be altered to his disadvantage after being appointed to the Commission or during his tenure of office.

Procedure and jurisdiction of Commission.

**84.** (1) The jurisdiction and powers of the Commission may be exercised by the Chairman or the Deputy Chairman and two other members selected by the Chairman or Deputy Chairman, for the purpose of any case or proceeding which may be brought before the Commission.

(2) Notwithstanding subsection (1), the jurisdiction of the Commission may be exercised with respect to—

*(a)* any matter, by the Chairman or Deputy Chairman sitting alone or with one other member if the parties consent thereto;

*(b)* any matter of practice or procedure that is contested by the parties, by the Chairman or Deputy Chairman or any member of the Commission who is an Attorney-at-law and is assigned for that purpose by the Chairman of the Commission; and

*(c)* any matter of practice or procedure which is uncontested by the parties by any member of the Commission assigned generally or specifically for that purpose by the Chairman of the Commission.

(3) The Commission shall encourage and promote alternative dispute resolution, being any mechanism for resolving disputes other than by way of litigation.

(4) The jurisdiction of the Commission to punish a contempt committed in the face or hearing of the Commission when constituted by a single member may be exercised by that member; in any other case, the jurisdiction of the Commission to punish a contempt shall be exercised by a division of the Commission consisting of at least two members, one of whom shall be the Chairman or Deputy Chairman of the Commission.

(5) Subject to any Rules which may be made under this section, the Commission may sit in more than one division at such times and in such places in any part of Trinidad and Tobago as may be most convenient for the determination of proceedings before it.

(6) Unless Rules made under this section otherwise provided fourteen clear days' notice shall be given to the appellant and to the respondent of the date fixed for the hearing of a matter by the Commission.

(7) In the case of a direct private party action brought under section 69, fourteen clear days' notice shall be given to the complainant and to the respondent, of the date fixed for the hearing of a matter by the Commission.

(8) The Chairman of the Commission, when present, shall preside, and, in the absence of the Chairman, the Deputy Chairman shall preside.

(9) Any appellant, complainant or respondent may appear before the Commission in person or may be represented by an Attorney-at-law.

(10) The Commission, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of its jurisdiction, shall have all such powers, rights and privileges as are vested in the High Court of Justice on the occasion of an action.

(11) A summons signed by the Registrar of the Commission shall have the same force and effect as any formal process capable of being issued in any action taken in the High Court for enforcing the attendance of witnesses and compelling the production of documents.

(12) In any matter before the Commission, the Commission may order that written arguments and a citation of authorities be submitted to the Commission in addition to or with the consent of the parties, in place of an oral hearing.

(13) The decision of the Commission shall be that of the majority of the members present, but the opinion of the presiding member shall prevail on any matter arising in the course of any proceedings which, in his opinion, is a question of law.

(14) The decision of the Commission in any proceedings shall be delivered by the presiding member and any member may provide a concurring or dissenting opinion to the decision of the Commission.

(15) The Commission may, subject to the approval of the President, make Rules not inconsistent with this Act governing the carrying on of its business and the practice and procedure in connection with appeals to the Commission and other proceedings, and the regulating of any matters relating to the cost of proceedings before the Commission.

(16) The presiding member may, subject to the Rules of the Commission and to this Act, determine the procedure to be followed in any appeal or other proceedings.

(17) Where by any written law there is conferred on the Commission jurisdiction which was previously exercised by another Court, Tribunal, authority or person (hereinafter called the "former Tribunal"), then subject to section 85 and to any Rules made under this section—

*(a)* the procedure which governed the exercise of the jurisdiction by the former tribunal shall continue, *mutatis mutandis*, to govern such exercise by the Commission;

*(b)* the decisions of the Commission in relation to such exercise are enforceable in the same way as those of the former Tribunal; and

*(c)* the effect of things done in or for the purpose of that jurisdiction by the former Tribunal shall be preserved.

(18) The Commission may hear any case or proceeding *in camera* where such procedure is reasonably required to protect the interests of a party to the case or proceeding.

Notices of appeal.

**85.** (1) This section applies to every appeal to the Commission under this Act or any other written law.

(2) The appeal shall be instituted by filing with the Registrar of the Commission a notice of appeal and serving a copy thereof on the Secretary of the Authority or other respondent.

(3) Any appeal instituted under this section shall be filed within twenty-eight days of the service on the person seeking to appeal the decision of the Authority or other respondent, or within such other time as may be prescribed by Rules made under section 84(15).

(4) Notwithstanding subsection (3), an appeal may be instituted out of time if the Commission is satisfied that there was a reasonable cause for not appealing within the time limit and that the appeal was filed thereafter without unreasonable delay.

(5) The notice of appeal shall describe the specific dispute and specify the grounds of appeal, and shall be in such form as may be prescribed by Rules of the Commission.

(6) If on the hearing of the appeal the appellant desires to go into any ground of appeal which was not specified in the notice of appeal, and the omission of that ground from the notice was in the opinion of the Commission not wilful or unreasonable, the Commission shall not by reason of anything in subsection (5), be precluded from allowing the appellant to go into that ground or taking it into consideration.

(7) Immediately after receiving the notice of appeal, or within such other time as may be prescribed by Regulations made under this Act. The Authority or other respondent shall forward to the Commission copies of all documents relevant to the decision which is the subject of the appeal.

Hearing and determination of appeals.

**86.** (1) The onus of proving that the decision complained of is excessive or wrong is on the appellant.

(2) In appeals involving the Authority, there shall be a presumption of regularity with regard to findings of fact by the Authority, and such findings shall not be reversed unless the appellant affirmatively demonstrates that there is no substantial evidence supporting such findings of fact.

(3) Subject to subsection (4), the Commission may dispose of an appeal by—

*(a)* dismissing it;

*(b)* allowing it;

*(c)* allowing it and modifying the decision or action of the Authority; or

*(d)* allowing it and referring the decision or action back to the Authority for reconsideration.

(4) Subject to Rules made under section 84(15), the Commission may make an Order for the payment of costs to the successful party in relation to the whole of the proceedings before it, or any part thereof, including costs incurred in the summoning and attendance of necessary witness.

(5) The decision of the commission is final on a question of fact and the amount of any administrative civil assessment under

section 66 however, an appeal shall lie on any question of law to the Court of Appeal upon entry of a final judgment by the Commission.

Statement of case for opinion of Court of Appeal.

**87.** (1) The appellant or the Authority or other complainant or respondent, if dissatisfied with the decision of the Commission as being erroneous in point of law may, within twenty-one days after the delivery of the decision or within such other time as may be prescribed, appeal against such decision by—

*(a)* filing with the Registrar a notice in writing, in the prescribed form, identifying the specific point or points of law alleged to be in error and requesting the Commission to state and sign a case for the opinion of the Court of Appeal; and

*(b)* serving a copy of the said notice on the Secretary of the Authority or other respondent or appellant in the underlying action, as the case may be.

(2) The case shall set forth the facts and the determination of the Commission relevant to the specific point or points of law alleged to be in error, and the party requiring it shall transmit the case, when stated and signed, to the Court of Appeal within twenty-one days after receiving the same.

(3) At or before the time when the party transmits the case to the Court of Appeal, the party requiring it shall send notice in writing of the fact that the case has been stated on his application, together with a copy of the case, to the other party or parties.

(4) The Court of Appeal shall hear and determine any question or questions of law arising on the case, and shall reverse, affirm or amend the determination in respect of which the case has been stated, or shall remit the matter to the Commission with the opinion of the Court of Appeal thereon.

(5) The Court of Appeal may cause the case to be sent back to the Commission for amendment on a point of law and thereupon, the case shall be amended accordingly, and judgment shall be delivered after it has been amended.

Order for deferment.

**88.** (1) Where the Authority has made a decision under section 25, or a designation under section 41, an aggrieved person may apply to the Commission for a deferment of the decision or designation on the grounds that it is unreasonable having regard to all the circumstances of the case, and the Commission may make an Order for such deferment.

(2) An application for deferment under subsection (1), may be made whether or not an appeal against the decision or designation was filed at the time of the making of the application, save however, that the appeal shall be filed in accordance with the provisions of section 85.

(3) Where an appeal is not filed in accordance with section 85, an Order for deferment made under this section shall lapse at the expiry of the time for the filing of the appeal.

(4) On the determination of an appeal against the decision of, or designation by the Authority, the Commission may discharge the Order for deferment.

Direct private party action.

**89.** (1) This section shall apply to every direct private party action brought pursuant to section 69.

(2) The Commission shall not have jurisdiction over any private party action unless the complainant has given proper notice to the Authority of not less than sixty days before bringing such action as required under section 69.

(3) A direct private party action shall be instituted by filing a complaint with the Registrar of the Commission and serving a copy thereof on the respondent and the Secretary of the Authority, within twenty-eight days of the date on which the complainant is first authorised to bring such an action.

(4) Notwithstanding subsection (3), a complaint may be instituted out of time if the Commission is satisfied that there was a reasonable cause for not bringing the complaint within the time limit and that the complaint was filed thereafter, without unreasonable delay.

(5) The complaint shall specify those provisions of this Act allegedly violated by the respondent, and subject thereto, the complaint shall be in such form as may be prescribed.

(6) The complainant may amend his complaint only by leave given by the Commission or by written consent of the respondent, but leave shall be given freely when justice so requires.

(7) At any time within sixty days after the filing of a direct private party action, the Authority may assume responsibility for taking enforcement action against the respondent by—

*(a)* pursuing the action before the Commission;

*(b)* issuing an Administrative Order or entering a Consent Agreement and Final Order addressing the violation pursuant to sections 64 to 66 inclusive; or

*(c)* pursuing other appropriate means of addressing the violation available to the Authority under this Act.

(8) In any instance where the Authority assumes responsibility for an enforcement action under subsection (7)*(b)* or *(c)*, the Authority may seek dismissal without prejudice to the case before the Commission, in which case the Commission shall upon dismissal award costs to the complainant, and the Authority shall bear responsibility for payment of complainant's costs.

(9) The onus of proving that the allegations of the complaint are well-founded is on the complainant.

(10) The Commission may dispose of a complaint by—

*(a)* dismissing it;

*(b)* allowing it and issuing such an order as would have been appropriate had the Authority taken action pursuant to sections 64 to 67 inclusive; or

*(c)* allowing it and referring the decision back to the Authority for reconsideration.

(11) The decision of the Commission is final on a question of fact; however, an appeal under section 87 shall lie on any question of law to the Court of Appeal.

Regulations for the Commission.

**90.** The President may make Regulations generally for carrying out the provisions of this Part.

## PART IX

## MISCELLANEOUS

Service of documents on the Authority.

**91.** Service upon the Authority of any notice, order or other document shall be effected by delivering the same, or by sending it by registered post addressed to the Secretary, at the office of the Authority.

Legal proceedings.

**92.** The Authority may institute proceedings or otherwise be a party in any legal proceedings arising out of or in the course of the operation of this Act before the Commission or any other Court.

Intervention by the Attorney General.

**93.** (1) The Attorney General shall have the power to intervene in any proceeding before the Commission as the official representative of the Government of Trinidad and Tobago.

(2) Where the Authority is a party in a case in which the Attorney General intervenes as authorised in subsection (1), the Authority may continue to be represented by its own Attorney-at-law.

Ethical standards and prohibitions.

**94.** (1) If any representative of the Authority, including any member of the Board, Trustee for the Fund, employee of the Authority or Environmental Officer, directly or indirectly demands or accepts any fee, perquisite, bribe, gratuity, recompense or reward, whether pecuniary or otherwise, from any person on account of anything done or to be done (or omitted or to be omitted) by such representative in any way relating to his office or employment, or if any representative attempts to make any collusive agreement to neglect his duty or to conceal or connive at any act whereby any provision of this Act or any other law may be evaded or violated, such representative commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars and imprisonment for six months.

(2) Every person who offers or provides to any representative of the Authority, including any member of the Board,

Trustee for the Fund, employee of the Authority or Environmental Officer, any fee, perquisite, bribe, gratuity, recompense or reward, whether pecuniary or otherwise, on account of anything done or to be done (or omitted or to be omitted) by such representative in any way relating to his office or employment, or attempts to make any collusive agreement for any such representative to neglect his duty or to conceal or connive at any act whereby any provision of this Act or any other law may be evaded or violated, commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars and imprisonment for six months.

Conflict of interest.

**95.** (1) Where any member of the Board, as well as any Trustee for the Fund, employee of the Authority or Environmental Officer, has any actual or reasonably perceived interest in a matter which would otherwise come before such individual as part of the consideration or other action to be taken by the Authority, whether such interest is direct or indirect or arises because of a potential financial interest or an immediate family relationship, such member of the Board, employee or Environmental Officer shall declare the nature of such interest at the first practicable opportunity.

(2) In any instance which arises under subsection (1), such member of the Board, employee or Environmental Officer shall not vote or otherwise participate in the decision-making process, or attempt to influence in any way the decision or action taken or to be taken by the Authority, with respect to such matter.

(3) If any action has already been taken by the Board or the Authority before such interest has been identified or disclosed, the action taken shall be subject to reconsideration by the Board or the Authority.

(4) Any member of the Board, employee of the Authority or Environmental Officer who knowingly violates the requirements of this section, commits an offence and is liable, on summary conviction, to a fine of five thousand dollars.

Regulations.

**96.** (1) The Minister may make Regulations prescribing matters required or permitted by this Act to be prescribed, or necessary or convenient for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the Minister shall have power to prescribe—

*(a)* the amount of charges and fees payable to the Authority for or in relation to applications, licences, permits or for the provisions of services or materials provided by the Authority to any person;

*(b)* the amount of any other charges or fees which may be specified in any programme developed by the Authority to encourage protection and conservation of the environment;

*(c)* the manner of implementing policies and programmes referred to in section 16(1)*(b)*.

(3) Regulations under this section may prescribe specific offences under this Act and provide that any person committing such an offence is liable, on summary conviction, to a fine of not more than twenty thousand dollars and imprisonment of not more than one year.

Validation of acts or omissions. 3 of 1995.

**97.** Notwithstanding the repeal of the Environmental Management Act, 1995 by this Act (hereinafter referred to as the "Former Act") all acts and things done or omitted to be done under the Former Act shall, notwithstanding any law to the contrary, be deemed to have been lawfully done under this Act, as if this Act had been in force at the commencement of the Former Act and all legal proceedings pending and all decisions issued or taken or in force at the commencement of this Act, shall continue to have full force and effect as if commenced, made or issued under this Act.

## SUBSIDIARY LEGISLATION

# CERTIFICATE OF ENVIRONMENTAL CLEARANCE RULES

ARRANGEMENT OF RULES

**RULE**

1. Citation.
2. Interpretation.
3. Application for Certificate.
4. Processing of application.
5. Preparation of TOR.
6. Determination of application.
7. Issue and refusal of Certificate.
8. National Register.
9. Public access to Certificate information.
10. Standards for preparation of EIA.
11. Transfer of Certificate.

## CERTIFICATE OF ENVIRONMENTAL CLEARANCE RULES

104/2001.

*made under section 26(h) and after compliance with sections 27 and 28*

**1.** These Rules may be cited as the Certificate of Environmental Clearance Rules. Citation.

**2.** In these Rules— Interpretation.

"Act" means the Environmental Management Act;

"applicant" includes an agent and an attorney appointed under a duly registered Power of Attorney;

"application" means an application for a Certificate made under section 35(2) of the Act;

"Authority" means the Environmental Management Authority established under section 6(1) of the Act;

"Certificate" means a certificate of environmental clearance issued under section 36(1) of the Act;

"designated activity" means an activity listed in the Schedule to the Certificate of Environmental Clearance (Designated Activities) Order; Sub. Leg.

"effects" includes direct and indirect, secondary, cumulative, short, medium and long term, permanent, temporary, positive, negative and synergistic effects;

"EIA" means an environmental impact assessment;

"notice" means a notice in accordance with the form determined by the Authority;

"Order" means the Certificate of Environmental Clearance (Designated Activities) Order; Sub. Leg.

"recipient" means the Authority, TCPD and a person mentioned in rule 3(2)*(b)*;

"Register" means the National Register of Certificates of Environmental Clearance established under rule 8;

"Registrar" refers to the Registrar of Companies under the Companies Act; Ch. 81:01.

"TCPD" means the entity responsible for town and country planning;

"TOR" means terms of reference for an EIA.

Application for Certificate. Form A.

**3.** (1) An application for a Certificate shall be in Form A and shall, subject to subrule (2), be submitted to the Authority together with the prescribed fee.

(2) An application shall be submitted—

*(a)* to TCPD in respect of a designated activity constituting a development requiring express grant of permission under the Town and Country Planning Act; or

Ch. 35:01.

*(b)* subject to paragraph *(a)*, to a person appointed as recipient of applications by the Authority by notice published in the *Gazette*.

(3) An application submitted under subrule (2) shall be forwarded by the recipient to the Authority not later than five working days after its receipt.

(4) The application shall contain—

*(a)* the name and business address of the applicant;

*(b)* an identification of the designated activity as set out in the Schedule to the Order; and

*(c)* the location of the proposed activity.

(5) The following information shall be supplied by the applicant in support of his application:

*(a)* the purpose and objectives of the activity;

*(b)* a description of the site and the areas likely to be affected by the proposed activity;

*(c)* the size and scale of the activity including capacity, throughput, land space and covered areas;

*(d)* a description of the activity explaining—

(i) the types of processes and equipment or machinery to be involved;

(ii) the type, quantity and sources of input materials;

(iii) the quantity and destination of any by-products, including any waste;

(iv) the modes of transportation that will be used to carry out the proposed activity and the potential effects of such transportation;

(v) the volume of intermediate and final products; and

(vi) the frequency or rate of extraction with respect to use of natural resources;

*(e)* the expected life of the activity;

*(f)* the proposed schedule of actions from preparatory work to start-up and operation;

*(g)* such maps, plans, diagrams, photographs, charts and other illustrative or graphic material as may facilitate understanding of the information presented and the nature of the site.

(6) Where the applicant is a company, the applicant shall supply the Authority with a Registrar's Certificate furnished by the Registrar of Companies under section 486(1)*(b)* of the Companies Act stating that the name of the company is on the Companies Register. Ch. 81:01.

(7) The applicant may, in the application assert a claim that any of the information to be supplied under subrule (5) is a trade secret or confidential business information, and the applicant may request that such information be omitted from the Register.

(8) The Authority may reject the claim under subrule (7) for the reason—

*(a)* that the applicant has not disclosed the basis for the claim;

*(b)* that the basis disclosed is invalid; or

*(c)* that the public interest in disclosing the information clearly outweighs any prejudice to the applicant.

Processing of application.

**4.** (1) The Authority shall, within ten working days after receipt of an application under rule 3(1) or 3(3) issue to the applicant a notice acknowledging receipt of the application and it shall—

*(a)* notify the applicant that the application does not relate to a designated activity and accordingly, does not require a Certificate;

*(b)* request further information of the applicant as prescribed in rule 3(5);

*(c)* notify the applicant that an application requires a CEC but does not require an EIA;

*(d)* notify the applicant that an EIA is required in compliance with a TOR;

*(e)* notify the applicant that the claim for confidentiality of information is upheld or rejected and the reason therefor.

(2) The rejection of a claim under rule 3(8) is subject to appeal to the Environmental Commission.

Preparation of TOR.

**5.** (1) Where the Authority determines that an EIA is required, the Authority shall within twenty-one working days after the date of the notification under rule 4(1)*(d)*—

*(a)* consult with the applicant on the preparation of the proposed TOR;

*(b)* prepare the draft TOR; and

*(c)* notify the applicant in writing that the draft TOR is ready for collection at the Authority's offices upon payment by the applicant of the prescribed charge.

(2) The applicant shall, where appropriate, conduct consultations with relevant agencies, non-governmental

organisations and other members of the public on the draft TOR and may, within twenty-eight days after notification under subrule (1)*(c)*, submit written representations to the Authority requesting that the draft TOR be modified and setting out—

*(a)* the manner in which he proposes that the TOR should be modified;

*(b)* a reasoned justification for the proposed modifications; and

*(c)* a report of the consultations with relevant agencies, non-governmental organisations and other members of the public on the draft TOR.

(3) The Authority shall consider any written representations and the prescribed information submitted by the applicant pursuant to subrule (2) and shall finalise the TOR as it sees fit, and issue the final TOR to the applicant within ten working days after the expiry of the period specified for the submission of written representations in subrule (2).

Determination of application.

**6.** (1) Subject to subrule (2) the Authority shall notify the applicant in writing of its determination with respect to a Certificate which—

*(a)* does not require an EIA, within thirty working days after the date of acknowledgement of the receipt of the application under rule 3(1) or rule 3(3), or within thirty working days after the receipt of further information requested under rule 4; and

*(b)* requires an EIA within eighty working days after the submission of the EIA Report.

(2) Where the Authority considers that it will be unable to make a determination within a period specified in subrule (1) it shall, before the expiry thereof, notify the applicant in writing of an extended date by which the determination will be made and the reasons therefor.

Issue and refusal of Certificate.

**7.** (1) A determination with respect to a Certificate includes—

*(a)* the issue of a Certificate in accordance with the form as determined by the Authority which shall include—

(i) an identifying number;

(ii) the date from which the Certificate is effective;

(iii) the information, in the application mentioned in rule 3(4);

(iv) the mitigation measures that the applicant is required to undertake;

(v) a condition that if the activity for which the Certificate is granted has not commenced within three years after the effective date, the Certificate shall cease to have any validity, force or effect;

(vi) other terms and conditions as the Authority sees fit; and

(vii) a reminder to the applicant of his right of appeal to the Environmental Commission against a decision to grant a Certificate with conditions; or

*(b)* the issue of a notice of refusal to issue a Certificate which shall set out the reasons for refusal and a reminder to the applicant of his right of appeal to the Environmental Commission against a decision to refuse to issue a Certificate.

(2) The applicant shall cause the certificate to be displayed in public view at the place from which the applicant carries on the designated activity for which the Certificate was issued.

National Register.

**8.** (1) The Authority shall establish a National Register of Certificates of Environmental Clearance.

(2) Subject to subrule (3), the Authority shall enter in the Register the details and status of every—

*(a)* application, including the information supplied under rule 3(5);

*(b)* application for a transfer under rule 11;

*(c)* Certificate, including the appropriate mitigation measures, other terms and conditions subject to which it is issued and transfers approved by the Authority under rule 11;

*(d)* refusal to issue a Certificate and the reasons for refusal; and

*(e)* refusal to grant a transfer of a Certificate.

(3) The Authority shall omit from the Register any information which the applicant claims under rule 3(7) should be treated as a trade secret or confidential business information where—

*(a)* the Authority does not contest the claim; or

*(b)* the Authority rejects the claim but the claim is upheld on appeal pursuant to rule 4(2).

Public access to Certificate information.

**9.** (1) The Register shall be open to examination by members of the public at such place or places and during such times as the Authority may notify from time to time in the *Gazette* and in one or more daily newspaper of general circulation.

(2) An extract from the Register shall be supplied at the request of any person on payment of the prescribed fee.

Standards for preparation of EIA.

**10.** An EIA required by the Authority under section 35(4) of the Act shall be carried out by persons with expertise and experience in the specific areas for which information is required and may, where appropriate include the following information:

*(a)* a non-technical summary of the findings of the assessment comprising the key issues, a brief evaluation of the potential effects and hazards of the proposed activity and the measures and recommendations proposed for addressing the findings of the evaluation;

*(b)* a description of the existing ecological and other characteristics and conditions of the site and areas likely to be affected by the proposed

activity, with relevant information about the land use requirements during the various phases of the activity;

*(c)* illustrative materials where appropriate, including maps and photographs;

*(d)* a description of the activity giving adequate and concise information on—

(i) the characteristics of the processes and methods proposed;

(ii) the design, size, scale and capacity;

(iii) equipment and machinery to be involved;

(iv) source, nature and quantity of materials to be used;

(v) rates of extraction; and

(vi) the estimated type and quantities of expected emissions, residues, wastes, noise, light, vibrations, heat, and radiation to air, water and soil during the various phases of the activity;

*(e)* an identification and assessment of the main effects that the activity is likely to have on the components of the environment, including:

(i) human beings;

(ii) fauna;

(iii) flora;

(iv) soil;

(v) water—surface and ground;

(vi) air;

(vii) the coast and sea;

(viii) weather and climate;

(ix) the landscape;

(x) the interaction between any of the foregoing;

(xi) material assets;

(xii) the cultural heritage;

*(f)* an evaluation of the alternatives to the activity, giving consideration to concerns of environment, alternative sites, designs, approaches and processes;

*(g)* an account of the assessment of the methods used and the level of uncertainty of any predictions;

*(h)* an account of the measures proposed to avoid, reduce, mitigate or remedy any of the significant adverse effects identified;

*(i)* an identification of the potential hazards and an assessment of the level of risk that may be caused by the proposed activity and an account of the measures envisaged to address any environmental emergencies that may result from the activity;

*(j)* a description of the programme proposed for monitoring actual impacts and the effects of the mitigation measures at the various stages of the activity;

*(k)* the data and methods used to obtain the information in paragraph *(e)*.

Transfer of Certificate.

**11.** (1) The Authority may, on an application by a person to whom a Certificate has been issued, transfer the Certificate.

(2) The Authority shall not approve an application under subrule (1) unless the application is in respect of the designated activity to which the Certificate applies.

(3) An application for a transfer shall be in accordance with the form as determined by the Authority and shall be submitted to the Authority together with the prescribed fee.

(4) An application for a transfer shall contain—

*(a)* the name and address of the transferee; and

*(b)* the signatures of the transferee and the applicant.

(5) An application for a transfer shall be accompanied by the Certificate which is to be transferred.

(6) Where the transferee is a company, an application for a transfer shall be accompanied by a Certificate furnished by the Registrar of Companies under section 486(1)*(b)* of the Companies Act stating that the name of the company is on the Companies Register.

Ch. 81:01.

(7) Where the Authority approves an application under subrule (1), the Authority shall—

*(a)* endorse the Certificate submitted under subrule (5);

*(b)* substitute the name of the applicant on the Certificate for that of the transferee; and

*(c)* date the application.

(8) The applicant shall be deemed to be the person to whom the Certificate applies from the date specified in subrule (7)*(c)*.

# NOISE POLLUTION CONTROL RULES

ARRANGEMENT OF RULES

**RULE**

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**FIRST SCHEDULE.**
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60/2001.
[93/2001].

## NOISE POLLUTION CONTROL RULES

*made under sections 26(a),(b),(j),(k), 49, 51 and 81(5)(i)*

Citation and Application.

**1.** (1) These Rules may be cited as the Noise Pollution Control Rules.

(2) These Rules do not apply to sounds generated by nature without human intervention.

Interpretation.

**2.** In these Rules—

"Act" means the Environmental Management Act;

"agricultural" means any land used for horticulture, fruit growing, seed growing, dairy farming, cane farming, the breeding and keeping of livestock, grazing, market gardens and nursery grounds, and the use of land for woodlands;

"applicant" includes an agent or an Attorney appointed under a duly registered Power of Attorney;

"Authority" means the Environmental Management Authority established under section 6(1) of the Act;

"background sound pressure level" means—

*(a)* the composite of sounds from all natural sources;

*(b)* sounds generated by activities forming part of the ordinary living conditions of an area,

but does not include sounds from a source or sources under investigation or study, or sounds that are not considered as part of ordinary living conditions;

"Board" means the Board of Directors of the Authority appointed under section 6 of the Act;

"Commission" means the Environmental Commission established under section 81 of the Act;

"emergency" means any situation arising from events beyond the reasonable control of any person that requires immediate corrective action to restore normal operation, and causes a facility to breach a variation condition or to emit a sound greater than the prescribed standards;

"environmentally sensitive area" means a portion of the environment so designated under section 41 of the Act;

"equivalent continuous sound pressure level" means that value of the "A" weighted sound pressure level of the sound as measured at a specific location averaged over a continuous 30-minute period, except in rule 9 where the period of measurement is 3 hours, when measured using an integrated-averaging sound level meter that complies with the requirements as specified in the Second Schedule and when measured in accordance with the Second Schedule; Second Schedule.

facility" means any location within the environment, and any premises, vehicles, building, process, equipment, development or natural or man-made structure at such location, from or which noise pollutants are emitted;

"general area" means all of Trinidad and Tobago except environmentally sensitive areas and industrial areas;

"grantee" means a person to whom a variation has been granted;

"industrial area" means an area expressly approved for industry by a competent governmental entity;

"industry" includes any business, trade, service or calling;

"instantaneous unweighted peak sound pressure level" means that value of the unweighted peak sound pressure level of a sound as measured at a specific location when measured using an integrated-averaging sound level meter that complies with the requirements as specified in the Second Schedule and when measured in accordance with the Second Schedule; Second Schedule.

"Local Authority" means a Council of a Municipal Corporation within the meaning of the Municipal Corporations Act; Ch. 25:04.

"Noise Variation Register" means the register established by the Authority pursuant to rule 25;

"noise zones" means a noise zone set out in rule 4;

"notice" means a notice in accordance with the form determined by the Authority;

"premises" means any location within the environment, and any facility, building process, equipment, development, or natural or man-made structure at such location, from which or on which noise pollutants may be released;

Sub. Leg. "prescribed fees" means the fee prescribed in the Noise Pollution Control (Fees and Charges) Regulations, 2000;

"prescribed standard" means the maximum permissible sound pressure levels as specified in the First Schedule;

First Schedule.

"property line" means a vertical plane which determines the property boundaries in space;

"Register" means the register of noise pollutants established under section 49(2) of the Act;

"sound amplifying equipment" means any machine or device for the amplification of the human voice, music or any other sound, or by which the human voice, music or any other sound is amplified;

"sound level meter" means an instrument including a microphone, an amplifier, and indicating device having a declared performance and designed to measure a frequency-weighted and time-weighted value of the sound pressure level, and with integrated-weighted averaging capability as defined by the Authority;

"sound pressure level" means that quantity which is used as a measure of the level of the sound at a specific location and is expressed as the equivalent continuous sound pressure level in the unit of dBA and/or the instantaneous unweighted (peak) sound pressure level in the unit of dB;

"source" means a machine, device or person which creates sounds whether fixed, motionless or moving;

"Tobago House of Assembly" means the Tobago House of Assembly referred to in section 141A of the Constitution;

"variation" means a variation from the prescribed standard;

"vehicle" means any form of conveyance or transportation from which noise pollutants may be released.

Register of Noise Pollutants.

**3.** (1) The Register shall be in the form determined by the Authority.

(2) The Authority shall maintain the Register in accordance with section 49 of the Act.

Noise Zones.

**4.** For the purposes of these Rules, Trinidad and Tobago comprises the following noise zones:

*(a)* Zone I—Industrial areas;

*(b)* Zone II—Environmentally sensitive areas;

*(c)* Zone III—The general area.

Prescribed standards. First Schedule.

**5.** (1) Subject to any variation, the prescribed standards shall apply to areas within the noise zones.

(2) Subject to any variation, no person shall emit or cause to be emitted any sound that causes the sound pressure levels to be greater than the prescribed standards.

Sound level pressure measurement.

**6.** (1) Sound pressure level shall be measured at the property line of—

*(a)* the property of the person affected by the sound; or

*(b)* the property where the source of the sound is located.

(2) Where the sound pressure level at (1)*(a)* is different from that at (1)*(b)* the latter shall be used to determine whether there has been an infraction of these Rules.

(3) Measurement of sound pressure level and reporting of sound pressure level measurement data shall be in accordance with the Second Schedule and the Third Schedule respectively.

Second and Third Schedules.

Exempt activities.

**7.** Sounds from the following activities are exempt from the prescribed standards:

*(a)* religious events and activities without the use of sound amplifying equipment when conducted between 6.00 a.m. and 11.00 p.m. of the same day and of a duration of no more than 5 hours;

*(b)* sporting events and activities without the use of sound amplifying equipment when conducted between 8.00 a.m. and 9.00 p.m. of the same day and of a duration of no more than 5 hours;

*(c)* educational instruction, educational classes and recreation in schools or other educational institutions being a school within the meaning of section 2 of the Education Act, when between 7.00 a.m. and 9.00 p.m. of the same day;

Ch. 39:01.

*(d)* public march, meeting, procession and gatherings if approved in accordance with the Summary Offences Act;

Ch. 11:02.

*(e)* any alarm or emergency device, apparatus or equipment when triggered in event of an emergency for a continuous period of not more than eight (8) hours;

*(f)* sound associated with the installation, repair or replacement of public utilities in a public place between the hours of 7.00 a.m. and 11.00 p.m. of the same day;

*(g)* emergency work required to be performed either before a period of public emergency or after a period of public emergency, to protect persons or property from exposure to danger or hazards, including the restoration of public utilities or other public services following a storm, earthquake, accident or other like occurrence;

*(h)* warning devices for the protection of the public, including police, fire, ambulance, automobile horns, vehicle alarm devices when used for the purpose of warning;

*(i)* activities of the armed forces conducted in the course of duty;

*(j)* the use of motor-operated garden equipment such as lawn mowers, brush cutters, edge trimmers, mist-blowers, leaf-blowers and power

tools (whether electrically, pneumatically or other non-manually operated) for the general repair and maintenance of property which require the constant presence of an operator for normal use, where such use is conducted between the hours of 7.00 a.m. and 7.00 p.m. of the same day manually operated grass cutters which can be operated from 4.30 a.m. to 7.00 p.m. on the same day;

*(k)* construction activity when conducted on a construction site between the hours of 7.00 a.m. and 7.00 p.m. of the same day;

*(l)* use of agricultural machinery and equipment on agricultural lands between the hours of 4.30 a.m. and 7.00 p.m. of the same day;

*(m)* testing of emergency alarms, devices and equipment when conducted between the hours of 8.00 a.m. and 4.00 p.m. of the same day and for a continuous period of not more than five minutes.

Public entertainment warning sign.

**8.** (1) Where the sound pressure level in any place of public entertainment is greater than—

*(a)* an equivalent continuous sound pressure level of one hundred dBA over a measurement period of three hours; or

*(b)* an instantaneous unweighted peak sound pressure level of one hundred and twenty dB (peak),

the owner or person responsible for the place of public entertainment shall paint or place and fix upon the outside of such place in letters publicly visible and legible, a sign stating, "WARNING: SOUND LEVEL MAY CAUSE ADVERSE EFFECT TO HUMAN HEALTH AND WELL-BEING".

(2) Measurement of the sound pressure level in a place specified in subrule (1) shall be made—

Second and Third Schedules.

*(a)* in accordance with the Second and Third Schedules;

*(b)* inside the place; and

*(c)* at a point that is normally occupied by a customer or patron.

(3) This Rule does not exempt an activity or event that is conducted in a place of public entertainment from the prescribed standards.

Requirement to apply for a variation.

**9.** (1) Subject to subrule (3) where a person proposes to conduct an activity or an event that will cause sound in excess of the prescribed standards, that person shall submit an application to the Authority for a variation.

(2) Where, in the operation of a facility, a person causes sound in excess of the prescribed standards, the Authority may at any time notify that person to submit an application for a variation. Provided however, that the operation of the facility shall be allowed to continue until final determination of an application for a variation.

(3) Where the operator of a facility wishes to permit a person under subrule (1) to conduct, in that facility, an event or an activity that will cause sound in excess of the prescribed standards, the operator of the facility shall submit an application to the Authority for a variation in accordance with rule 10(1).

(4) Notwithstanding anything to the contrary in these Rules, where a person emits a sound in a noise zone within the prescribed standards for that noise zone but which results in the creation of a sound in excess of the prescribed standards in an adjoining noise zone, the Authority may notify that person to submit an application for a variation.

(5) A person granted a variation shall be required to pay annual fees prescribed by the Minister where such variation is for a period in excess of a calendar year.

Application for a variation.

**10.** (1) An application for a variation with respect to an event or activity shall —

*(a)* be submitted at least four weeks before the date of the event or activity;

*(b)* be in accordance with the form as determined by the Authority;

*(c)* be submitted to the Authority together with the prescribed fee;

*(d)* be placed in one national daily newspaper in a form prescribed by the Authority for a period of at least two (2) consecutive days and at least one calendar week before the submission of the application for a variation;

*(e)* be in respect of one event or activity;

*(f)* include the following information:

(i) name and address of the applicant;

(ii) map or plan detailing the location of the event or activity;

(iii) the proximity of the event or activity to residential areas;

(iv) information as to whether the sound would be recurrent, intermittent or constant;

(v) an account of the proposed measures to be taken to avoid, mitigate or remedy any excessive emission of sound;

(vi) nature and purpose of event or activity that may generate the sound;

(vii) proposed date, time and duration of the event or activity; and

(viii) any other information deemed necessary by the Authority.

(2) An application for a variation with respect to a facility shall—

*(a)* be submitted within ten working days after the owner or operator receives notice under rule 9(2);

*(b)* be placed in one national daily newspaper in a form prescribed by the Authority for a period of at least two (2) consecutive days and at least one calendar week before the submission of the application for a variation;

*(c)* be in accordance with the form as determined by the Authority, together with the prescribed fee; and

*(d)* be in respect of multiple sources of noise pollutants in one facility;

*(e)* include the following information:

(i) name and address of the applicant, company name or corporate name, name of directors if any and the position of the applicant;

(ii) map or plan detailing the location of the facility;

(iii) the proximity of the facility to residential areas;

(iv) information as to whether the sound will be recurrent, intermittent or constant;

(v) an account of the proposed measures to be taken to avoid, mitigate or remedy any excessive emission of sound;

(vi) nature of the process that generates the sound;

(vii) time of emission of the sound; and

(viii) any other information deemed necessary by the Authority.

Further information.

**11.** (1) The Authority may, during the determination of an application under these Rules, request oral information or additional written information from—

*(a)* an applicant;

*(b)* a person who is directly affected by the application;

*(c)* a Local Authority, any agency of the Tobago House of Assembly or any other Government entity; or

*(d)* any source the Authority considers appropriate.

(2) Where the Authority receives information under subrule (1)*(b)*, *(c)* or *(d)* the Authority shall—

*(a)* forward to the applicant copies of such information; and

*(b)* request the applicant to submit a response within a specified time.

(3) Where during the determination of an application under these Rules the applicant becomes aware—

*(a)* that in an application or in a report to the Authority the applicant has failed to submit any relevant facts or has submitted incorrect information; or

*(b)* that there is any change affecting the accuracy of any information provided to the Authority,

the applicant shall within five working days, notify and submit to the Authority the relevant facts and correct information.

Incomplete applications.

**12.** (1) Where the Authority considers that the applicant has omitted to provide any of the information required under these Rules, the Authority shall notify the applicant in writing of the omission within ten working days of receipt of the application and shall request the applicant to submit the omitted information within a specified time.

(2) The Authority may, at the request of the applicant allow an extension of the time limit prescribed in subrule (1) or rule 11(2).

(3) Without prejudice to the generality of rule 13(1), where the applicant does not supply the information under subrule (1) or rule 11(2)*(b)* within the time specified by the Authority under subrule (1) or (2), the Authority shall refuse to grant a variation.

Determination of application. [93/2001].

**13.** (1) Subject to subrule (2), the Authority shall—

*(a)* within ten (10) days of receipt of a completed application under rule 10(1) grant or refuse to grant a variation;

*(b)* within six (6) weeks of receipt of a completed application under rule 10(2) grant or refuse to grant a variation.

(2) Where the applicant under rule 10 submits further information under rule 11(2), 11(3) or 12 the Authority shall grant or refuse a variation within six weeks of receipt of such information.

Noise Advisory Council.

**14.** The Board shall appoint an Advisory Council, referred to as the Noise Advisory Council, which may advise the Authority on the granting of variations.

Duration of a variation.

**15.** Unless previously revoked by the Authority, a variation shall be effective until a fixed date or for a fixed period specified in the variation but for a period of not more than five (5) years.

Conditions of a variation.

**16.** (1) The Authority may establish maximum permissible sound pressure level in a variation.

(2) The Authority shall establish in each variation, conditions which may include but shall not be limited to the following requirements:

*(a)* that the grantee shall take all reasonable steps to—

(i) avoid all adverse environmental impacts which could result from the event, facility or activity;

(ii) minimize the adverse environmental impact where the avoidance is impractical;

(iii) mitigate the impact where the impact cannot be avoided;

*(b)* that the grantee shall conduct monitoring of the conditions of the variation in accordance with the methods specified in the variation;

*(c)* that the grantee shall at all times properly operate and maintain all systems of control which are installed to achieve compliance with the variation inclusive of best management practices;

*(d)* that the grantee shall furnish the Authority with any information which the Authority may request to determine whether cause exists for revoking or renewing the variation or to determine compliance with the variation;

*(e)* that the grantee shall report all instances of anticipated non-compliance to the Authority and shall give advance notice to the Authority of any planned changes in the event or activity or operation of a facility which may result in non-compliance with the variation requirements;

*(f)* that the grantee may be required to place with the Authority, a bond of a specified amount as prescribed by the Authority which may be forfeited by the Authority if any of the conditions specified in the granting of the variation are violated;

*(g)* the period during which the variation would be in operation both in terms of hours, days or years;

*(h)* that, where appropriate, the grantee may be required to provide notice to persons living in the vicinity of the source of the sound;

*(i)* sound abatement measures stipulated by the Authority; and

*(j)* that where there has been non-compliance with the variation requirements, the grantee shall—

(i) report to the Authority, within forty-eight hours of the time the grantee becomes aware of the circumstances of the non-compliance;

(ii) within five working days submit to the Authority a written report containing a description of the non-compliance, its cause and the period of non-compliance including exact dates and times, the response and counter measures taken; and

(iii) if the non-compliance has not been corrected, submit a report to the Authority indicating the anticipated time it is expected to continue.

(3) In deciding the terms and conditions of a variation, the Authority shall have regard to information submitted under rules 10, 11 and 12.

(4) In determining any variation, the Authority may request or direct the applicant to request public submissions or hold a public hearing on the application for a variation.

Changes after grant of a variation.

**17.** Where a grantee—

*(a)* dies;

*(b)* becomes bankrupt;

*(c)* transfers ownership of the facility, event or activity;

*(d)* goes into liquidation or receivership; or

*(e)* becomes a party to an amalgamation,

that person or the person responsible for his affairs, shall within twenty-one working days of the occurrence and upon payment of the prescribed fee, give the Authority notice in writing thereof.

Transfer of a variation.

**18.** (1) No variation is assignable or transferable to any person without the consent of the Authority.

(2) The Authority may, on the application of a grantee, transfer a variation to another person.

(3) The Authority shall not approve an application under subrule (2) unless the application is in respect of the activity, event or facility to which the variation applies.

(4) An application for a transfer shall be in accordance with the form as determined by the Authority and shall be submitted to the Authority together with the prescribed fee.

(5) An application for a transfer shall contain—

*(a)* the name and address of the proposed transferee; and

*(b)* the signatures of the proposed transferee and the applicant.

(6) An application for a transfer shall be accompanied by the variation which is to be transferred.

(7) Where the proposed transferee is a company, an application for a transfer shall be accompanied by a Registrar's certificate furnished by the Registrar of Companies under section 486(1)*(b)* of the Companies Act stating that the name of the Company is on the Register of Companies. Ch. 81:01.

(8) Where the Authority approves an application under subrule (2), the Authority shall—

*(a)* endorse the transfer on the variation submitted under subrule (6);

*(b)* substitute the name of the applicant on the variation for that of the person to whom the variation has been granted; and

*(c)* endorse the date on which the application was approved.

(9) The transferee shall be deemed to be the person to whom the variation applies from the date specified in subrule (8)*(c)*.

Renewal of a variation.

**19.** (1) Where a grantee wishes to continue to exceed the prescribed standards beyond the expiration of a variation, he shall submit an application for a new variation to the Authority, in accordance with the form as determined by the Authority, together with the prescribed fee.

(2) An application for a new variation shall be made at least thirty working days before the expiration of the variation.

(3) Where after the expiration of a variation, the grantee has submitted an application for the new variation in accordance

with subrules (1) and (2), the expired variation shall continue in force until the effective date of the new variation.

(4) A person granted a renewed variation shall be required to pay annual fees prescribed by the Minister where such variation is for a period in excess of a calendar year.

Revocation of a variation.

**20.** Where a variation granted by the Authority is in force, the Authority may revoke the variation if it appears to the Authority that—

*(a)* the grantee has committed persistent breaches of environmental requirements;

*(b)* the continuation of the emission authorised by the variation would cause serious harm to the environment or human health that cannot be avoided by varying the conditions of the variation;

*(c)* the grantee has made a misrepresentation or wilful omission in obtaining the variation or in any report submitted to the Authority;

*(d)* there has been a violation of any fundamental condition of the variation;

*(e)* there has been any other change in circumstances relating to the variation that requires a permanent reduction in the emission.

Procedure for the revocation of a variation.

**21.** The Authority shall not revoke a variation unless it has—

*(a)* given written notice to the grantee that it intends to do so;

*(b)* specified in the notice the reasons for its intention to do so;

*(c)* given the grantee a reasonable opportunity to make submissions in relation to the revocation; and

*(d)* taken into consideration any submissions made by the grantee within five working days of service of the notice prescribed in paragraph *(a)*.

Notification of decisions of the Authority.

**22.** The Authority shall by notice inform the grantee of the following decisions in relation to a variation:

*(a)* refusal of a grant under rule 13(1);

*(b)* refusal of an application for a transfer under rule 18;

*(c)* refusal of an application for a renewal under rule 19;

*(d)* a revocation under rule 20;

*(e)* conditions of a variation under rule 16(2); and

*(f)* a rejection of a claim under rule 25.

Appeals to the Commission.

**23.** A decision of the Authority mentioned in rule 22, is subject to appeal to the Commission.

Noise Variation Register.

**24.** (1) The Authority shall establish and maintain a Noise Variation Register in the form determined by the Authority.

(2) The Noise Variation Register shall be open to the public for inspection at the Authority's principal office during working hours.

(3) The Noise Variation Register shall contain particulars of, or relating to—

*(a)* every application for a variation;

*(b)* every variation;

*(c)* every refusal to grant a variation under rule 13(1) together with the reasons for the refusal;

*(d)* every refusal of a renewal of a variation under rule 19;

*(e)* every revocation of a variation under rule 20;

*(f)* ministerial directives under section 5 of the Act;

*(g)* inspection reports pursuant to sections 22 and 23 of the Act;

*(h)* notices of all types including notices of violation under section 63 of the Act;

*(i)* administrative orders under sections 64 and 65 of the Act;

*(j)* administrative civil assessments under section 66 of the Act;

*(k)* applications for enforcement under section 67 of the Act;

*(l)* other actions by the Authority under section 68 of the Act; and

*(m)* complaints against a person to which a variation has been issued under section 69 of the Act.

(4) An extract from the Noise Variation Register shall be supplied at the request of any person on payment of the prescribed fee.

Trade secrets and confidential business information.

**25.** (1) An applicant may assert a claim, in accordance with the form as determined by the Authority, that any of the information supplied to the Authority under rule 10, 11, 12 or 13 is a trade secret or confidential business information and that it be omitted from the Noise Variation Register.

(2) The Authority may reject the claim for the reason—

*(a)* that the applicant has not disclosed the basis for the claim;

*(b)* that the basis therefor is invalid; or

*(c)* that the public interest in disclosing the information clearly outweighs any prejudice to the applicant.

(3) The Authority shall omit the information from the Noise Variation Register where—

*(a)* the Authority does not contest the claim; or

*(b)* the Authority rejects the claim under subrule (2) but the claim is upheld on an appeal pursuant to rule 23.

Emergency procedure.

**26.** (1) All persons shall notify the Authority of an emergency within forty-eight hours of the time the grantee becomes aware of the circumstances of the emergency whereby there is a breach of the prescribed standards.

(2) Where an emergency occurs, a person shall—

*(a)* take all reasonable measures to limit the breach of the prescribed standards;

*(b)* immediately after the occurrence of the emergency, notify the Authority orally or by facsimile of the time, specific location and the equipment involved; and

*(c)* within five working days of the emergency submit to the Authority a written description of the emergency stating—

(i) the cause of the emergency;

(ii) the exact dates of the period of the emergency;

(iii) whether or not the emergency has been corrected;

(iv) the anticipated time by which the emergency is expected to be corrected; and

(v) the steps taken or planned to reduce, eliminate and prevent the reoccurence of the emergency.

Saving.
Ch. 11:02.

**27.** Nothing in these Rules affects the operation of—

*(a)* the Summary Offences Act; and

*(b)* the common law regarding nuisance.

Rule 5(1).

## FIRST SCHEDULE

## PRESCRIBED STANDARDS

| TYPE OF ZONES WHERE THE SOUND ORIGINATES | MAXIMUM PERMISSIBLE SOUND PRESSURE LEVELS |
|---|---|
| | Note: All sound pressure levels shall be measured in accordance with the Second Schedule. |
| ZONE I— Industrial areas | **Anytime**—The sound pressure level shall not exceed the following:<br>*(a)* equivalent continuous sound pressure level of 75 dBA;<br>*(b)* instantaneous unweighted peak sound pressure level of 130 dB (peak). |
| ZONE II— Environmentally Sensitive areas. | **Daytime Limits**—On Mondays to Sundays of every week from 8.00 a.m. to 8.00 p.m. on each day—<br>*(a)* the sound pressure level when measured as the equivalent continuous sound pressure level shall not be more than 3 dBA above the background sound pressure level; and<br>*(b)* the sound pressure level when measured as instantaneous unweighted peak sound pressure level shall not exceed 120 dB (peak).<br>Notwithstanding the above, no person shall emit or cause to be emitted any sound that causes the sound pressure level when measured as the equivalent continuous sound pressure level to exceed 60 dBA.<br><br>**Night-time Limits**—On Mondays to Sundays of every week from 8.00 p.m. to 8.00 a.m. on each day—<br>*(a)* the sound pressure level when measured as the equivalent continuous sound pressure level shall not be more than 3 dBA above the background sound pressure level; and<br>*(b)* the sound pressure level when measured as instantaneous unweighted peak sound pressure level shall not exceed 115 dB (peak).<br>Notwithstanding the above, no person shall emit or cause to be emitted any sound that causes the sound pressure level when measured as the equivalent continuous sound pressure level to exceed 60 dBA. |

ZONE III—
General area

**Daytime Limits**—On Mondays to Sundays of every week from 8.00 a.m. to 8.00 p.m. on each day—

*(a)* the sound pressure level when measured as equivalent continuous sound pressure level shall not be more than 5 dBA above the background sound pressure level; and

*(b)* the sound pressure level when measured as instantaneous unweighted peak sound pressure level shall not exceed 120 dB (peak).

Notwithstanding the above, no person shall emit or cause to be emitted any sound that causes the sound pressure level when measured as the equivalent continuous sound pressure level to exceed 80 dBA.

**Night-time Limits**—On Mondays to Sundays of every week from 8.00 p.m. to 8.00 a.m. on each day—

*(a)* the sound pressure level when measured as equivalent continuous sound pressure level shall not be more than 5 dBA above the background sound pressure level; and

*(b)* the sound pressure level when measured as instantaneous unweighted peak sound pressure level shall not exceed 115 dB (peak).

Notwithstanding the above, no person shall emit or cause to be emitted any sound that causes the sound pressure level when measured as the equivalent continuous sound pressure level to exceed 65 dBA.

Rules 6(3) and 8(2).

## SECOND SCHEDULE

## MEASUREMENT OF SOUND PRESSURE LEVELS

### 1.0 Instrumentation

For the purposes of determining compliance with the prescribed standards, the instrumentation used shall comply with the following requirements:

*(a)* the instrumentation used shall be an integrating-averaging sound level meter (also known as an integrating sound level meter or an averaging sound level meter) with a measurement capability of the range of 30 dB to 140 dB, and which complies with the specifications for integrating-averaging sound level meters Type 1 or 2 respectively, as specified in International Electrotechnical Commission Standard IEC 804:1985 Integrating-averaging sound level meters and applicable requirements of IEC 651:1979 sound level meters, or with other standards as approved by the Authority;

*(b)* the integrating-averaging sound level meter shall also possess the capability to measure unweighted sound pressure levels (linear response) and the peak time weighted characteristic as specified in IEC 651:1979;

*(c)* the integrating-averaging sound level meter shall also possess the capability to log the acoustic data in the memory of the meter, over the measurement period(s).

### 2.0 Calibration

For the purposes of determining compliance with the prescribed standards, the integrating-averaging sound level meter shall be appropriately calibrated for the acoustical environment in which it shall be used.

**NOTE: Generally, for measurement of community (environmental) sound, the instrument shall be calibrated for diffuse field.**

### 3.0 Personnel

The determination of sound pressure levels shall be conducted by competent officers so designated by the Authority or by persons appropriately trained in sound level measurement techniques.

### 4.0 General Procedures

4.1 The following general procedures shall be followed in measuring sound pressure levels:

*(a)* as far as possible, standard sound measurement practice and the manufacturer's instructions for the calibration and method and manner of use of the integrating-averaging sound level meter should be observed;

*(b)* the calibration of the integrating-averaging sound level meter should be checked in the field in accordance with the manufacturer's instructions prior to taking the sound pressure level measurements of the source under investigation;

*(c)* to prevent measuring errors caused by wind blowing across the microphone, a windscreen as recommended by the manufacturer of the integrating-averaging sound level meter should be used.

4.2 SETTINGS ON INSTRUMENT

In determining compliance with the prescribed standards, measurements shall be taken with the integrating-averaging sound level meter on the following settings:

*(a)* the integrating-averaging sound level meter shall be set at the 3 dB exchange rate;

*(b)* in determining equivalent continuous sound pressure level, the meter shall be set on the "Fast" response and "A-weighted" frequency characteristic;

*(c)* in determining instantaneous unweighted peak sound pressure level, the meter shall be set on the "Peak" response and "Linear" frequency (unweighted) characteristic.

4.3 LOCATION OF MEASUREMENT POINTS

In determining compliance with the prescribed standards, the background sound pressure level shall be measured at or beyond the boundary of the property in which the source of the sound under investigation is located, or at the boundary of a receptor.

The following guidelines should be observed in positioning the integrating-averaging sound level meter when taking measurements:

*(a)* for outdoor measurements, the preferred measurement height is 1.2 to 1.5 metres above the ground. For outdoor measurements near buildings, the preferred measurement positions are, at least, 1 metre to 2 metres horizontally from the façade and at least, 1.2 metres to 1.5 metres above each floor level of interest;

*(b)* where sound pressure levels are to be determined inside buildings, the measurements shall be carried out in enclosures where the sound is of interest. The preferred measurement positions are at least 1 metre horizontally from the walls or other major reflecting surfaces, 1.2 metres to 1.5 metres above the floor and about 1.5 metres from windows.

4.4 METEOROLOGICAL CONDITIONS

For the purposes of determining compliance with the prescribed standards, sound pressure levels may be taken under any prevailing meteorological conditions provided that there is the absence of precipitation, thunder and distinctly audible winds. Further, meteorological conditions prevailing at one time period shall be deemed to be similar to those at another time period if both time periods fall within the same time of day, i.e., "daytime" or "night-time" as defined by the respective intervals for the relevant type of noise zone, and if during the period of measurement, there is no precipitation, thunder or distinctly audible winds blowing in the immediate vicinity. (For guidance, the immediate vicinity may be interpreted as within a radius of 10 metres of the microphone of the integrating-averaging sound level meter).

4.5 BACKGROUND SOUND PRESSURE LEVEL

The background sound pressure level at a specific site shall be determined by measuring both the equivalent continuous sound pressure level in dBA, and, the maximum instantaneous unweighted peak sound pressure level over any measurement period (which shall be reported in the report as required in the Third Schedule). These measurements shall be taken during the same time of day as defined for the respective prescribed standards with which compliance is being determined.

**NOTE: The point at which measurements for determining the background sound pressure level are taken, should be preferably in the immediate vicinity of the point at which the background sound pressure level with the source in operation would be taken; however, such measurements for determining background sound pressure level should not be taken at points outside a radius of 100 metres from the source under investigation.**

## THIRD SCHEDULE

Rules 6(3) and 8(2).

## REPORTING OF SOUND PRESSURE LEVEL MEASUREMENT DATA

1.0 For the purposes of reporting the sound pressure level measurement data obtained in accordance with the Second Schedule, a report containing the following information shall be prepared:

Second Schedule.

1.1 ACOUSTIC DATA

*(a)* general location(s), including address if possible, where the measurements were taken;

*(b)* general description of the type of sound being measured (i.e., steady, fluctuating, etc.);

*(c)* height(s) of the measurement position(s), and microphone orientations;

*(d)* the sound pressure level(s) obtained, expressed as the equivalent continuous sound pressure level, in dBA;

*(e)* the maximum instantaneous unweighted peak sound pressure level, in dB (peak), recorded over a period of measurement which shall also be stated;

*(f)* the frequency weighting used in obtaining—

(i) the equivalent continuous sound pressure level; and

(ii) the maximum instantaneous unweighted peak sound pressure level;

*(g)* the time-weighting characteristic used in obtaining—

(i) the equivalent continuous sound pressure level; and

(ii) the maximum instantaneous unweighted peak sound pressure level;

*(h)* the exchange rate at which the integrating-averaging sound level meter was set during the measuring exercise;

*(i)* the date(s) and time period(s) when the sound pressure level measurements were taken; and

*(j)* whether or not the measured sound pressure level(s) in terms of—

(i) the equivalent continuous sound pressure level; and

(ii) the maximum instantaneous unweighted peak sound pressure levels are in compliance with the applicable prescribed maximum permissible sound pressure levels as specified in the First Schedule.

First Schedule.

1.2 DESCRIPTION OF SOURCE AND SURROUNDINGS

*(a)* general description of the sound source(s), which may include nature of sound and activity generating it, character of the sound, and its appropriateness for the particular noise zone;

*(b)* general location of source(s), including address if possible; and

*(c)* general description and, optionally, sketch (not necessarily drawn to scale) of the physical environment in the immediate vicinity of the sound source(s) or in the area of concern or in the receptor locations; (This description and sketch may include location of walls, ceilings, and rooms, or if outdoors, trees, structures, reflecting objects, and topographic features).

1.3 METEOROLOGICAL CONDITIONS

Description of the meteorological conditions in the vicinity of the location of the microphone of the integrating-averaging sound level meter during the measurement period(s), in terms of—

*(a)* whether or not precipitation was present;

*(b)* whether or not thunder was present; and

*(c)* whether or not there were distinctly audible winds blowing.

1.4 INSTRUMENTATION

*(a)* identification of the instrument(s) used, such as brand name, manufacturer, type, serial number of instrument, serial number of microphone, if removable;

*(b)* most recent report of calibration conducted by manufacturer or other recognised authority;

*(c)* record of calibration checks conducted for the particular measurement exercise; and

*(d)* accessories used in measuring the sound pressure levels, if applicable, such as microphone corrector, windscreen, tripod.

1.5 PERSONNEL

*(a)* name of person(s) taking the measurements;

*(b)* respective job designation; and

*(c)* name and job designation of person(s) who checked the calibration of the instrument, if different from *(a)* and *(b)* above.

1.6 MISCELLANEOUS

Any other data and information that the person taking the measurements or the Authority may deem necessary.

**NOTE: The required data and information may be completed in a form to be determined by the Authority.**

## NOISE POLLUTION CONTROL (FEES) REGULATIONS

51/2001.

*made under section 96(2)*

Citation.

**1.** These Regulations may be cited as the Noise Pollution Control (Fees) Regulations.

Interpretation.

**2.** In these Regulations—

"Rule" means a rule of the Noise Pollution Control Rules.

Fees. Schedule.

**3.** The fees payable to the Authority are set out in the Second Column of the Schedule and are in respect of the corresponding entry in the First Column of the Schedule.

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## SCHEDULE

| First Column | Second Column |
|---|---|
| *Rule 9(5)* | |
| Annual Fees for a Variation for a period in excess of one year | $2,500.00 per annum or part thereof |
| *Rule 10(1)(c)* | |
| Application for a Variation Single Event … … | $250.00 |
| Multiple Events … … … … | $1,000.00 |
| *Rule 17(1)* | |
| Application for Changes after Grant of Variation … | $250.00 |
| *Rule 18(4)* | |
| Application for Transfer of Variation … … … | $250.00 |
| *Rule 19(1)* | |
| Application for Renewal of Variation… … … | $2,000.00 |
| *Rule 19(4)* | |
| Annual Variation Fees for a Renewed Variation for a period in excess of one year | $5,000.00 per annum or part thereof |
| *Rule 25(1)* | |
| Application that Information Supplied be omitted from the Noise Variation Register … … … | $250.00 |

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# ENVIRONMENTALLY SENSITIVE SPECIES RULES

ARRANGEMENT OF RULES

**RULE**

1. Citation.
2. Interpretation.
3. Standards and guidelines for designation of "environmentally sensitive species".
4. Form and contents of Notice.
5. Procedure for designating an environmentally sensitive species.
6. Rescission of designation of environmentally sensitive species.

**SCHEDULE I.**
**SCHEDULE II.**
**SCHEDULE III.**
**SCHEDULE IV.**
**SCHEDULE V.**

## ENVIRONMENTALLY SENSITIVE SPECIES RULES

63/2001.

*made under sections 26(e) and 41*

Citation.

**1.** These Rules may be cited as the Environmentally Sensitive Species Rules.

Interpretation.

**2.** In these Rules—

"Act" means the Environmental Management Act;

"Authority" means the Environmental Management Authority established under section 6 of the Act;

"ESS" means any species of living plant or animal designated as an environmentally sensitive species under section 41 of the Act;

"Notice" means a Notice designating an ESS made under section 41 of the Act.

Standards and guidelines for designation of "environmentally sensitive species".

**3.** (1) The Authority may by Notice designate as an ESS an animal or plant—

*(a)* that is indigenous to Trinidad and Tobago or, although not indigenous to Trinidad and Tobago, is present in Trinidad and Tobago for a part of its life or reproductive cycle;

*(b)* that throughout all or a part of its range is, or is likely to become, in danger of extinction and whose survival is unlikely if the factors jeopardising it continue to operate;

*(c)* that is required to be protected for the purpose of meeting the Government's international obligations under any of the International Conventions referred to in Schedule I;

Schedule I.

*(d)* to which any of the Guidelines set out in Schedule II applies;

Schedule II.

*(e)* that is referred to in a written law set out in Schedule III.

Schedule III.

(2) The activities that, for the protection of the ESS, may be prohibited or regulated in a Notice including the following:

*(a)* with respect to any species of living plant, and its parts and products, where appropriate, all forms of destruction and disturbance, including the picking, collecting, cutting, uprooting or possession of or trade in, such species;

*(b)* with respect to any species of living animal—

(i) the taking possession or hunting of such species, or trade in such species, their parts or products;

(ii) to the extent possible, the disturbance of wild animals particularly during the period of breeding, incubation, estivation or migration, as well as other periods of biological stress.

(3) The Authority shall designate on the basis of the best scientific data available and after taking into consideration the economic impact and any other relevant impact of the designation.

(4) This rule does not apply to the captive breeding of living animals and to the propagation of living plants.

(5) In this rule "hunt" means—

*(a)* to kill, injure or shoot at;

*(b)* with intent to kill, injure, shoot at or capture, to wilfully disturb or molest by any method; or

*(c)* with intent to kill, injure, shoot at or capture, to lie in wait for, follow or search for,

any animal.

(6) In this rule "trade" means export, sell, expose for sale or otherwise dispose of.

Form and contents of Notice. Schedule IV.

**4.** A Notice shall be in the form set out in Schedule IV and shall include—

*(a)* a description of the plant with reference to its local and botanical names;

*(b)* a description of the animal with reference to its common and scientific names;

*(c)* the reason for the designation as set out in rule 3(1) or in paragraph 1 of Schedule II; Schedule II.

*(d)* the limitations on use of, and the activities that are permitted with regard to, the ESS as set out in rule 3(2);

*(e)* the activities prohibited for the protection of the ESS; and

*(f)* the appropriate mitigation measures which should be undertaken.

Procedure for designating an environmentally sensitive species.

**5.** (1) Where the Authority proposes to make a Notice, it shall notify that fact, and transmit a draft of the proposed Notice to—

*(a)* the governmental entities having responsibility for agriculture, plant protection, forestry, conservation of wild life, and fisheries; and

*(b)* any other government entity having responsibility for planning and management with respect to the proposed ESS.

(2) The notification shall invite written submissions with respect to the proposed Notice to be made to the Authority by a stated date, being not less than thirty days from the giving of the notification.

(3) The Authority may revise the proposed Notice to give effect to the submissions received under subrule (2).

(4) The Authority shall thereafter publish in the *Gazette* and in at least one daily newspaper a similar notification inviting submissions from the public, together with the proposed Notice as may be revised.

(5) A submission shall contain the grounds therefor and may include additions, modifications or amendments to give effect to the submission.

(6) The Authority shall have regard to any submissions received under subrule (4) before making the Notice and publishing it in the *Gazette*.

Rescission of designation of environmentally sensitive species.

**6.** (1) Where any of the provisions of rule 3(1) cease to apply to an ESS the Authority may by Notice rescind the designation of the ESS.

Schedule V.

(2) The Notice shall be in the form set out in Schedule V and shall include—

*(a)* the information set out in rule 4*(a)* or *(b)*; and

*(b)* the reason for the rescission of the designation.

(3) The procedures as set out under rule 5 for the designation of an ESS shall, where appropriate, apply for the making of a Notice under this rule for the rescission of that designation.

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Rule 3(1)*(c)*.

## SCHEDULE I

## INTERNATIONAL CONVENTIONS

(i) The Convention on International Trade in Endangered Species of Wild Fauna and Flora which entered into force in Trinidad and Tobago on 8th April, 1984 (the CITES Convention);

(ii) The Protocol concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region which entered into force in Trinidad and Tobago on 18th January, 1990 (the SPAW Protocol);

(iii) The Convention on Wetlands which entered into force in Trinidad and Tobago on 21st April, 1993 (the Ramsar Convention, Iran, 1971);

(iv) The United Nations Convention on Biological Diversity which entered into force in Trinidad and Tobago on 1st August, 1996 (the BIODIVERSITY Convention);

(v) Any other international legal convention relating to the environment to which Trinidad and Tobago is a party.

## SCHEDULE II

Rule 3(1)*(d)*.

## GUIDELINES FOR ENVIRONMENTALLY SENSITIVE SPECIES

1. The designation of species as "environmentally sensitive" is to meet one or more of three general categories of objectives:

*(a)* conservation of biological diversity and protection of the environment;

*(b)* sustainable economic and human development;

*(c)* logistic support, e.g., environmental education, information sharing, etc.

The specific objectives are:

*(a)* maintenance of species abundance and diversity;

*(b)* preservation of the integrity of species' populations to ensure genetic viability and to sustain their intangible and direct material benefits;

*(c)* maintenance of its importance or significance to the ecosystem(s) of the immediate locality or to wider areas;

*(d)* regulation of species which are or may pose a health or ecological liability;

*(e)* provision of valuable educational and non-destructive scientific research opportunities;

*(f)* demonstration of the benefits of wise use and the pitfalls of indiscriminate use of particular species.

2. Designation of environmentally sensitive species will be on the basis of one or more of the following criteria:

*(a)* importance as a pharmaceutical or for the provision of other medicinal derivatives;

*(b)* good potential for the conduct of non-destructive research to provide important scientific data;

*(c)* commercial importance as non-domesticated species which is harvested, extracted or traded;

*(d)* indicator or sentinel species for pollutant levels, diseases, weather or climate patterns;

*(e)* integral to the maintenance of a climax community through key physical processes or ecological interactions characteristic of a given locality or wider area;

*(f)* critical to the colonisation, consolidation or rehabilitation of barren, hostile or unsettled areas;

*(g)* unique or of significant taxonomic importance as a subspecies or variant of continental genera; a relict species; a species adapted to local conditions; or a viable mutant strain;

*(h)* significance in ecosystems external to Trinidad and Tobago as a migrant or transient, that is spending part of its life cycle in, or passing through this country;

*(i)* high in aesthetic value;

*(j)* potential for ecological or health risks by nature of its biology or by the introduction of a pathogenic agent respectively.

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Rule 3(1)*(e)*.

## SCHEDULE III

## ANIMALS AND PLANTS REFERRED TO IN OTHER WRITTEN LAWS

1. An animal or plant—

*(a)* that is indigenous to Trinidad and Tobago or, although not indigenous to Trinidad and Tobago, is present in Trinidad and Tobago for a part of its life or reproductive cycle; and

*(b)* to which subrule (2) or (3) applies, is eligible for designation as an environmentally sensitive species by a Notice made by the Authority under section 41 of the Act.

2. This subrule applies to—

**(a)* a plant that is included in a proclamation made under section 4*(a)* or *(b)* of the Plant Protection Ordinance; Ch. 23. No. 17.

*(b)* a plant that is included in an Order made under section 3 of the Plant (Export Prohibition) Act; Ch. 63:54.

*(c)* a protected animal referred to in section 2 of the Conservation of Wild Life Act; Ch. 67:01.

*(d)* a fish that is included in a regulation made under section 4*(b)*, *(d)* or *(e)* of the Fisheries Act. Ch. 67:51.

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*Repealed by the Plant Protection Act (Chap. 63:56).

3. This subrule applies to—

*(a)* an animal or plant that is included in Appendix I, II, or III of the CITES Convention;

*(b)* an animal or plant that is listed in Annex I, II or III, and a protected species referred to in Article I*(h)*, of the SPAW protocol;

*(c)* waterfowl whose habitat is a natural reserve established under Article 4 of the Ramsar Convention;

*(d)* a component of biological diversity identified under Article 7*(a)* of the BIODIVERSITY Convention.

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## SCHEDULE IV

Rule 4.

THE ENVIRONMENTAL MANAGEMENT ACT, CH. 35:05

## NOTICE

MADE BY THE ENVIRONMENTAL MANAGEMENT AUTHORITY UNDER SECTIONS 41, 42 AND 43 OF THE ENVIRONMENTAL MANAGEMENT ACT

1. The Environmental Management Authority hereby designates as an environmentally sensitive species (the ESS) the plant/animal described in Part I. Designation. Part I.

2. The reason for the designation is to meet the objective set out in Part II. Reason for designation. Part II.

3. The limitations on use of and activities with regard to the ESS with which compliance is required, are as specified in Part III. Limitations on use and activities. Part III.

4. Subject to paragraph 3, the wise use of the ESS is permitted and the mitigating measures to be undertaken are as specified in Part IV. Permitted use and mitigating measures. Part IV.

PART I

| | | |
|---|---|---|
| *(a)* Plant | Local Name | Botanical Name |
| *(b)* Animal | Common name | Scientific Name |

Part II

Part III

Part IV

Made the .....day of ..... 20 .....

*Chairman/Deputy Chairman/Secretary,*
*Environmental Management Authority*

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Rule 6(2).

## SCHEDULE V

THE ENVIRONMENTAL MANAGEMENT ACT, CH. 35:05

## NOTICE

MADE BY THE ENVIRONMENTAL MANAGEMENT AUTHORITY UNDER SECTION 41, OF THE ENVIRONMENTAL MANAGEMENT ACT

Rescission of designation. Part I.

1. The Environmental Management Authority hereby rescinds the designation of the plant/animal described in Part I as an environmentally sensitive species (the ESS).

Reason for rescission. Part II.

2. The reason for the rescission of the designation is that the objective set out in Part II has ceased to apply to the ESS.

Revocation.

3. Legal Notice No. ..... of ..... 20..... is hereby revoked.

PART I

| | | |
|---|---|---|
| *(a)* Plant | Local Name | Botanical Name |
| *(b)* Animal | Common Name | Scientific Name |

Part II

Made the .....day of ..... 20 .....

*Chairman/Deputy Chairman/Secretary,*
*Environmental Management Authority*

# ENVIRONMENTALLY SENSITIVE AREAS RULES

ARRANGEMENT OF RULES

**RULE**

1. Citation.
2. Interpretation.
3. Standards and guidelines for designation of environmentally sensitive areas.
4. Form and contents of Notice.
5. Procedures for designating an environmentally sensitive area.
6. Rescission of designation of environmentally sensitive area.

**SCHEDULE I.**
**SCHEDULE II.**
**SCHEDULE III.**
**SCHEDULE IV.**
**SCHEDULE V.**

## ENVIRONMENTALLY SENSITIVE AREAS RULES

64/2001.

*made under sections 26(e) and 41*

Citation.

**1.** These Rules may be cited as the Environmentally Sensitive Areas Rules.

Interpretation.

**2.** In these Rules—

"Act" means the Environmental Management Act;

"Authority" means the Environmental Management Authority established under section 6 of the Act;

"biological diversity" means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and between ecosystems;

"ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;

"environmentally sensitive species" or "ESS" means any species of living plant or animal so designated under section 41 of the Act;

"ESA" means a portion of the environment designated as an environmentally sensitive area under section 41 of the Act;

"licensed surveyor" means a person registered as a Land Surveyor under the Land Surveyors Act; Ch. 58:04.

"Notice" means a Notice designating an ESA made under section 41 of the Act.

Standards and guidelines for designation of environmentally sensitive areas.

**3.** (1) Subject to subrule (2), the Authority may by Notice designate as an ESA any portion of the environment that is—

*(a)* the actual or prospective habitat of any environmentally sensitive species;

*(b)* required to be protected for the purpose of meeting the Government's international obligations under any of the International Conventions referred to in Schedule I; Schedule I.

*(c)* an area to which any of the Guidelines set out in Schedule II applies;

Schedule II.

*(d)* an area that is referred to in a written law set out in Schedule III.

Schedule III.

(2) The Authority shall designate an ESA on the basis of the best scientific data available and after taking into consideration the economic impact and any other relevant impact of the designation.

Form and contents of Notice. Schedule IV.

**4.** (1) A Notice shall be in the form set out in Schedule IV and shall include—

*(a)* a description of the area with reference to its location, boundaries and size, and a map or plan certified by a licensed surveyor;

*(b)* the reason for the designation as set out in rule 3(1) or in paragraph 1 of Schedule II;

Schedule II.

*(c)* the limitations on use of and the activities within the ESA that are permitted or prohibited; and

*(d)* the appropriate mitigation measures which should be undertaken.

(2) Where there is a discrepancy between the description of the area and the licensed surveyor's map or plan, the latter shall prevail.

Procedures for designating an environmentally sensitive area.

**5.** (1) Where the Authority proposes to make a Notice, it shall notify that fact, and transmit a draft of the proposed Notice to—

*(a)* the government entities having responsibility for land, the continental shelf, forestry, conservation of wildlife and fisheries; and

*(b)* any other government entity having responsibility for planning and management in the proposed ESA.

(2) The notification shall invite written submissions with respect to the proposed Notice to be made to the Authority

by a stated date, being not less than thirty days from the giving of the notification.

(3) The Authority may revise the proposed Notice to give effect to the submissions received under subrule (2).

(4) The Authority shall thereafter publish in the *Gazette* and at least one daily newspaper a similar notification inviting submissions from the public, with respect to the proposed Notice as may be revised.

(5) A submission shall contain the grounds therefor and may include additions, modifications or amendments to give effect to the submission.

(6) The Authority shall have regard to any submissions received under subrule (4) before making the Notice and publishing it in the *Gazette*.

Rescission of designation of environmentally sensitive area.

**6.** (1) Where the provisions of rule 3(1) cease to apply to an ESA the Authority may by Notice rescind the designation of the ESA.

Schedule V.

(2) The Notice shall be in the form set out in Schedule V and shall include—

*(a)* the information contained in rule 4 (1)*(a)*; and

*(b)* the reason for the rescission of the designation.

(3) The procedures as set out under rule 5 for the designation of an ESA shall, where appropriate, apply for the making of a Notice under this rule for the rescission of that designation.

Rule 3(1)*(b)*.

## SCHEDULE I

## INTERNATIONAL CONVENTIONS

(i) The Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region which entered into force in Trinidad and Tobago on October 11, 1986 (the CARTAGENA Convention).

(ii) The Protocol concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region which entered into force in Trinidad and Tobago on January 18, 1990 (the SPAW Protocol).

(iii) The Convention on Wetlands (the Ramsar Convention, Iran 1971) which entered into force in Trinidad and Tobago on April 21, 1993.

(iv) The United Nations Framework Convention on Climate Change which entered into force in Trinidad and Tobago on September 22, 1994.

(v) The United Nations Convention on Biological Diversity which entered into force in Trinidad and Tobago on August 01, 1996.

(vi) Any other international legal convention relating to the environment to which Trinidad and Tobago is a party.

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Rule 3(1)*(c)*.

## SCHEDULE II

## GUIDELINES FOR ENVIRONMENTALLY SENSITIVE AREAS

1. The designation of an area, as "environmentally sensitive" is to meet one or more of three categories of general objectives:

*(a)* Conservation of natural resources and protection of the environment.

*(b)* Sustainable economic and human development.

*(c)* Logistic support such as environmental education, and information sharing.

2. The specific objectives are:

*(a)* Appreciation of the broader ecological aspects of an area for its intrinsic values and functions as well as for its potential for direct material benefits.

*(b)* Maintenance of the significance of an area in the national, regional or international context.

*(c)* Preservation of the biological diversity of the area.

*(d)* Preservation of the integrity of an area and its attributes with the aim of sustaining its potential for direct material benefits.

*(e)* Maintenance of its role in the functioning of the wider ecosystem.

*(f)* Protection, preservation, management or rehabilitation of an area that is fragile, threatened or degraded.

*(g)* Regulation of the use of the natural resources contained within the area.

*(h)* Maintenance of the cultural values of an area which are associated with preserving the integrity of the environment.

*(i)* Maintenance of a stock of genetic resources in viable populations.

*(j)* Facilitation of relevant scientific research or environmental monitoring to improve understanding of interactions between biotic and abiotic components of the environment, the processes involved and the attributes and potential of the area's resources.

*(k)* Dissemination of relevant information to stakeholders and the public at large.

3. Areas will be selected on the basis of one or more of the following general or specific criteria:

A. *General*

*(a)* Uniqueness, rarity or important biological features.

*(b)* Good representation of a naturally-occurring ecological system or type.

*(c)* Particularly good representative of an ecosystem characteristic of one, or common to more than one biogeographical region.

*(d)* Rare or unusual habitat, ecosystem, or community attributes in a biogeographical region.

*(e)* Critical importance to the survival or recovery of endangered, endemic or vulnerable species/communities of plants or animals.

*(f)* An appreciable or significant assemblage of endangered, or threatened species of plants or animals.

*(g)* Special value as a habitat for plants or animals at a critical stage of their biological cycle.

*(h)* Provision of appreciable social recreational or economic benefit to local communities or to wider areas.

*(i)* Forest, purely conservation purposes.

*(j)* Unique geological features.

*(k)* High in aesthetic value.

*(l)* Regarded by the scientific community as having significant value for non-destructive research.

*(m)* Potential for fostering environmental awareness, appreciation or education.

*(n)* Performing an integral role in the functioning of the wider ecosystem.

*(o)* Representative example of all coastal and marine ecosystems.

*(p)* Representative example of all wetland types.

B. *Specific*

*(a)* Strict Nature Reserve: an area requiring protection for science that possesses some outstanding or representative ecosystems, geological or physiological features and/or species, available primarily for scientific research and/or environmental monitoring.

*(b)* National Park: an area requiring: (i) the protection of the ecological integrity of one or more ecosystems for present and future generations, (ii) the exclusion of exploitation or occupation inimical to the purposes of designation of the area, and (iii) the provision of a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which are environmentally and culturally compatible.

*(c)* Natural Monument: an area containing one, or more, specific natural or natural/cultural features of outstanding or unique value that require conservation because of inherent rarity, representative or aesthetic qualities or cultural significance.

*(d)* Habitat/Species Management Area: an area requiring conservation through management intervention to ensure the maintenance of habitats and/or to meet the requirements of specific species.

*(e)* Protected Landscape/Seascape: an area, that may contain coast and sea requiring protection for conservation and recreation, where the interaction of people and nature over time has produced an area of distinct character with significant aesthetic, ecological and/or cultural value, and often with high biological diversity.

*(f)* Managed Resource Protected Area: an area containing predominantly unmodified natural systems, that require sustainable use and management to ensure long-term protection and maintenance of biological diversity, while providing at the same time a sustainable flow of natural products and services to meet community needs.

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## SCHEDULE III

Rule 3(1)*(d)*.

## AREAS REFERRED TO IN OTHER WRITTEN LAWS

*(a)* The territorial sea of Trinidad and Tobago and the internal waters of Trinidad and Tobago referred to in sections 3 and 4 respectively of the Territorial Sea Act. Ch. 1:51.

*(b)* A restricted area referred to in section 2 of the Continental Shelf Act. Ch. 1:52.

*(c)* A restricted area referred to in section 2 of the Marine Areas (Preservation and Enhancement) Act. Ch. 37:02.

*(d)* A Forest Reserve and a prohibited area referred to in section 2, and a declared district referred to in section 7 (3), of the Forests Act. Ch. 66:01.

*(e)* A Game Sanctuary referred to in section 2 of the Conservation of Wildlife Act. Ch. 67:01.

*(f)* An infected area and an infected place referred to in section 2 of the Animals (Diseases and Importation) Act. Ch. 67:02.

*(g)* A prohibited area referred to in section 2 of the Fisheries Act. Ch. 67:51.

*(h)* The archipelagic waters referred to in section 2, and the exclusive economic zone established under section 14, of the Archipelagic Waters and Exclusive Zones Act. Ch. 51:06.

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Rule 4.

## SCHEDULE IV

THE ENVIRONMENTAL MANAGEMENT ACT, CH. 35:05

## NOTICE

MADE BY THE ENVIRONMENTAL MANAGEMENT AUTHORITY UNDER SECTIONS 41, 42 AND 43 OF THE ENVIRONMENTAL MANAGEMENT ACT

Designation.

1. The Environmental Management Authority, hereby designates as an environmentally sensitive area (the ESA) the portion of the environment described in Part I.

Part I.

Reason for designation. Part II.

2. The reason for the designation is to meet the objective set out in Part II.

Limitations on use and activities. Part III.

3. The limitations on use of and activities within the ESA with which compliance is required are as specified in Part III.

Permitted use and mitigating measures. Part IV.

4. Subject to paragraph 3 the wise use of the ESA is permitted and the mitigating measures to be undertaken are as specified in Part IV.

Part I
Part II
Part III
Part IV

Made the .....day of ..... 20 .....

*Chairman/Deputy Chairman/Secretary,*
*Environmental Management Authority*

## SCHEDULE V

Rule 6(2).

THE ENVIRONMENTAL MANAGEMENT ACT, CH. 35:05

## NOTICE

MADE BY THE ENVIRONMENTAL MANAGEMENT AUTHORITY UNDER SECTION 41 OF THE ENVIRONMENTAL MANAGEMENT ACT

1. The Environmental Management Authority hereby rescinds the designation of the plant/animal described in Part I as an environmentally sensitive area (the ESA) made by Notice dated ..... and published in the *Gazette* of ..... . Rescission of designation. Part I.

2. The reason for the rescission of the designation is that the objective set out in Part II has ceased to apply to the said ESA. Reason for rescission. Part II.

3. Legal Notice No. ..... of ..... 20..... is hereby revoked. Revocation.

Part I

Part II

Made the ..... day of ..... , 20..... .

*Chairman/Deputy Chairman/Secretary,*
*Environmental Management Authority*

# ENVIRONMENTALLY SENSITIVE AREA (MATURA NATIONAL PARK) NOTICE

ARRANGEMENT OF CLAUSES

**CLAUSE**

1. Citation.
2. Interpretation.
3. Designation.
4. Application.
5. Reason for designation.
6. Limitations on use and activities.
7. Permitted use and mitigating measures.

## ENVIRONMENTALLY SENSITIVE AREA (MATURA NATIONAL PARK) NOTICE

323/2004.

*made under section 41 and under rules 3, 4 and 5 of the Environmentally Sensitive Areas Rules*

Citation.

**1.** This Notice may be cited as the Environmentally Sensitive Area (Matura National Park) Notice.

Interpretation.

**2.** In this Notice—

"Act" means the Environmental Management Act;

"animal" means any member of the animal kingdom, whether alive or dead in any stage of biological development, and any part or product of these;

"Authority" means the Environmental Management Authority established under section 6 of the Act;

"ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;

"endangered" means the status of a species in which population numbers have fallen, for whatever reasons, to levels which place the species at risk of extirpation from parts of its range or extinction from its entire range;

"Environmental Officer" means a person authorised under section 33 of the Act;

"Environmentally Sensitive Area" means the portion of the environment so designated in clause 3;

"Environmentally Sensitive Species" means any species of living plant or animal so designated under section 41 of the Act;

"explosive" has the meaning assigned to it in section 2 of the Explosives Act; Ch.16:02.

"Management Plan" means the Draft Management and Physical Plan and Additional Studies—Final Report, September 1998, Caribbean Forest Conservation Association (CFCA) as amended;

"National Park" means an area requiring—

*(a)* protection of the ecological integrity of one or more ecosystems for present and future generations;

*(b)* the exclusion of exploitation or occupation inimical to the purposes of designation of the area; and

*(c)* the provision of a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which are environmentally and culturally compatible;

"natural resources" means the living plants, animals, organisms and other biological factors within the environment, and the geologic formations, mineral deposits, renewable and non-renewable assets and the habitat of the living plants, animals, organisms and other biological factors;

"plant" means any member of the plant kingdom, whether alive or dead, in any stage of biological development, and any part or product of these;

"rare" means infrequently occurring species whose rarity may or may not be on account of human activity;

"Relevant Authority" means the Authority and any other governmental entity with jurisdiction under existing law;

"Rules" means the Environmentally Sensitive Areas Rules 2001;

"threatened species" means a species that is rare, vulnerable or endangered;

"vulnerable" means the state of a species whose life history is such that makes it prone to population depletion and consequent endangerment by human activity; and

"wise use" means the permitted activities listed in Part IV.

Designation. Part I.

**3.** The Authority hereby designates as an Environmentally Sensitive Area ("ESA") the portion of the environment described in Part I, hereinafter known as the Matura National Park.

Application.

**4.** This Notice does not apply to private land in the ESA.

Reason for designation. Part II.

**5.** The reason for the designation is to meet the objectives set out in Part II.

Limitations on use and activities. Part III.

**6.** The limitations on use of and activities within the ESA with which compliance is required are as specified in Part III.

Permitted use and mitigating measures. Part IV.

**7.** Subject to clause 6 the wise use of the ESA is permitted and the mitigating measures to be undertaken are as specified in Part IV.

## PART I

## DESCRIPTION OF THE ESA

### BOUNDARY DESCRIPTION OF MATURA NATIONAL PARK

Bounded on its Nothern Side

| Proceeding Direction | From: Northing Easting | To: Northing Easting | Description |
|---|---|---|---|
| North-west | C 1195830 717850 | C 1196570 713960 | From the South-East end of Private Parcel (PP) 8 along the Northern Range (Plan P G 71), the North side of State Parcel (SP) 4 to the Zagaya Road, along the Zagaya Road passing the Paria Main Road, across the Grande Riviere River, passing Isabella Trace to SP5 |
| South-west | D 1196570 713960 | E 119580 712220 | Along the East side of SP5, the East and South sides of SP6, the East and South sides of PPs 8, 9, 10 and 11, the South side of PP12, the East side of PP13, the West side of SP7, the South side of PP17 across and along the Grande Riviere Road, along the North side of the SP8 and SP9, across and along the Estate Trace, and along the East and North sides of PP18. |
| North-west | E 119580 712220 | F 1197030 709510 | Along the East side of the State Land, along the North side of the State Land along Howard Trace, along Mahaut Trace, along the East and South sides of PP19, across and along Mahaut River along the North side of the State Land and along the South side of PP20. |
| South-west | F 1197030 709510 | G 1196620 708850 | Along the North side of the State Land, across Shark River and along the South side of PP21. |

NB — The Co-ordinated Values for the Northings and Eastings are provided to the nearest ten (10) metres.

Bounded on its Southern Side

| Proceeding Direction | From: Northing Easting | To: Northing Easting | Description |
|---|---|---|---|
| West | H 1183780 715060 | A 1183980 716090 | Along the North side of SP10, the West side of SP10, across the Salibia River, along the West and North sides of SP10 along the Matura Trace, along the East side of SP10, along the North and East sides of the Salibia River to the Toco Main Road, along the Toco Main Road across Matura Trace, across Knaggs River, to the Western corner of Knaggs Trace and the Toco Main Road. |

NB—The Co-ordinated Values for the Northings and Eastings are provided to the nearest ten (10) metres.

Bounded on its Eastern Side

| Proceeding Direction | From: Northing Easting | To: Northing Easting | Description |
|---|---|---|---|
| North | A 1183980 716090 | B 1187110 716590 | Corner of Knaggs Trace and Toco Main Road, along the South, West and the North sides of PP1, the West and North sides of PP2, the North side of PP3, the West side of SP1, the West side of PP4, the South side of PP5, to Knaggs Trace, along Knaggs Trace, along the South side of PP6, the East side of PP7, along Tabateau Trace to Corral Trace, along Corral Trace and along the West sides of SPs 2 and 3. |
| North | B 1187110 716590 | C 1195830 717850 | Along the ridgeline in the Matura Forest Reserve across the Rio Seco Trace, across the Ward Boundary, across the St. David Forest Reserve, across Zagaya Road, into the Northern Range Reserve and to the South side of PP8. |

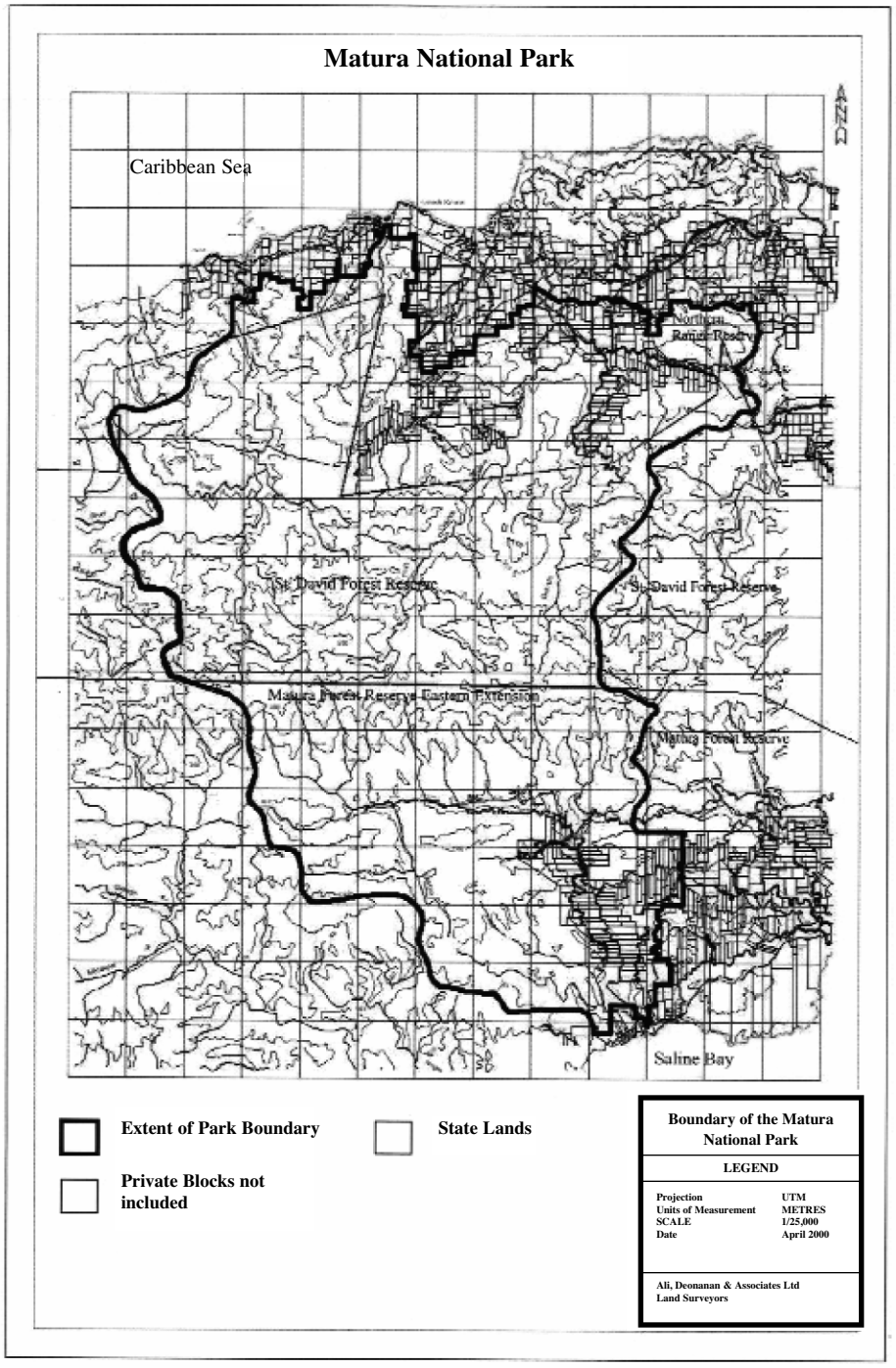
NB—The Co-ordinated Values for the Northings and Eastings are provided to the nearest ten (10) metres.

Bounded on its Western Side

| Proceeding Direction | From: Northing Easting | To: Northing Easting | Description |
|---|---|---|---|
| South | G 1196620 708850 | H 1183780 715060 | Along the ridgeline through the St. David Forest Reserve, across the Ward Boundary between the Ward of Toco and Matura, along the ridgeline through the Matura Forest Reserve Eastern Extension to the SP10. |

NB—The Co-ordinated Values for the Northings and Eastings are provided to the nearest ten (10) metres.

**The size of the Matura National Park is approximately 9,000 hectares.**


Matura National Park
Caribbean Sea
St. David Forest Reserve
St. David Forest Reserve
Matura Forest Reserve Eastern Extension
Matura Forest Reserve
Saline Bay
Extent of Park Boundary
State Lands
Private Blocks not included
Boundary of the Matura National Park
LEGEND
Projection UTM
Units of Measurement METRES
SCALE 1/25,000
Date April 2000
Ali, Deonanan & Associates Ltd
Land Surveyors

**PART II**

## OBJECTIVES OF DESIGNATION

I. Protection of the actual or prospective habitat of an Environmentally Sensitive Species.

II. In furtherance of Schedule I of the Rules, compliance with Government's international obligations under the following Conventions:

*(a)* The Protocol concerning Specially Protected Areas and Wildlife to the Cartagena Convention for the Protection and Development of the Marine Environment of the Wider Caribbean (the SPAW Protocol) which entered into force in Trinidad and Tobago on 26th May, 2000;

*(b)* The United Nations Convention on Biological Diversity (the Biodiversity Convention) which entered into force in Trinidad and Tobago on 1st August, 1996; and

*(c)* The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which entered into force in Trinidad and Tobago on 18th April, 1984.

III. In furtherance of Schedule II of the Rules— Schedule II.

1. Conservation of natural resources and protection of the environment including—

*(a)* maintenance of the significance of the area in the national, regional and international context;

*(b)* preservation of the biological diversity of the area including—

(i) protection of the largest and most intact representation of Mora Forest (*Mora excelsa*) in Trinidad and Tobago;

(ii) the protection of rare or threatened species and their habitat, including—

(A) Trinidad Piping-guan or Pawi (*Pipile pipile*);

(B) Ocelot (*Leopardus pardalis*);

(C) Yellow-crowned Parrot (*Amazona ochrocephala*);

(D) Parakeet, Green-rumped Parrotlet (*Forpus passerinus*);

(E) Tayra (*Eira barbara trinitatis*);

(F) Red Howler Monkey (*Alouatta seniculus*);

(G) Wild Hog, Quenk, Collared Peccary (*Tayassu tajacu*);

(H) River Otter (*Lontra longicaudis*);

(I) Matte, Banded-tegu (*Tupinambis teguixin*);

(J) Iguana (*Iguana iguana*);

(K) Orchids (*Orchidaceae spp*.);

(L) Rare South American relict fishes in the northern draining rivers having representative Antillean fish fauna dominated by gobies, mountain mullets, cling fishes and several sea-run species; and

(M) Red Brocket Deer (*Mazama americana trinitatis*);

*(c)* protection, preservation, management and rehabilitation of an area that is threatened and degraded;

*(d)* regulation of the use of natural resources contained within the area; and

*(e)* maintenance of a stock of genetic resources in viable populations including the Trinidad Piping-guan or Pawi (*Pipile pipile*); and Ocelot (*Leopardus pardalis*).

2. Sustainable Economic and Human Development.

3. Logistic support such as environmental education and information sharing including—

*(a)* development of low impact eco-tourism opportunities;

*(b)* management of visitor use for inspirational, educational, cultural and recreational purposes at a level which will maintain the area in a natural or near natural state;

*(c)* recognition of the needs of local communities in so far as it does not adversely affect the objectives of the Management Plan;

*(d)* facilitation of relevant scientific research and environmental monitoring to improve understanding of the interactions between biotic and abiotic components of the environment, the processes involved and the attributes and potential of the area's resources;

*(e)* dissemination of information particularly to local communities and stakeholders; and

*(f)* development of a database of information relevant to the ESA and maintaining public access to the information.

IV. In furtherance of Schedule III of the Rules, protection of an area referred to in the following written law: Schedule III.

A forest reserve, referred to in section 2 of the Forests Act, Ch. 66:01, declared under the Land Regulations (1918) made under the State Lands Act, Ch. 57:01.

**PART III**

## LIMITATIONS ON USE AND ACTIVITIES

1. The following uses and activities are prohibited in the ESA unless otherwise approved by the Relevant Authority in accordance with existing law:

*(a)* dumping, littering or polluting, including the discharging or depositing of any refuse, oily liquids, waste acids, deleterious chemicals or any toxic polluting substances of any kind injurious to plants, animals or fish;

*(b)* conduct or behaviour that unreasonably disturbs other persons in the ESA or unreasonably interferes with their enjoyment of the ESA;

*(c)* any action that will alter or upset the integrity of the natural functioning of the ecosystems of the ESA or causes damage to the natural resources of the ESA;

*(d)* with the exception of environmental officers the possession or use of firearms and other weapons harmful to animals and their habitats;

*(e)* hunting, trading, taking or killing of animals, juveniles and eggs;

*(f)* cutting or extraction of plants, trees, soil or any other material;

*(g)* keeping of domestic animals;

*(h)* introduction of any plant or animal species;

*(i)* use of pesticides, fungicides, insecticides and other chemicals;

*(j)* removal, damage or exportation of animals or plants, soil or any material;

*(k)* quarrying or mining from the surface of the ESA;

*(l)* prospecting and surveying for the purposes of mineral extraction;

*(m)* dredging, filling or excavating;

*(n)* removing or destroying the natural physical features of the ESA;

*(o)* the posession or use of explosives;

*(p)* removal, destruction, damaging or defacing of any object, which is of scientific, historical, archaeological, cultural or palaeontological interest;

*(q)* any parking or use of vehicles;

*(r)* occupation or use of land except as provided for in Part IV, clause 1*(d)* below;

*(s)* any other activity which results in a negative impact on the physical and biological; and

*(t)* socio-economic integrity of the ESA.

## PART IV

## WISE USE AND MITIGATION MEASURES

1. The following activities are permitted in the ESA subject to existing law:

*(a)* any activity that is in keeping with the enjoyment and experience of the natural and physical features, plants, animals and cultural attractions of the ESA;

*(b)* educational activities;

*(c)* non-destructive scientific research activities approved by the Relevant Authority;

*(d)* activities permitted in Management Plan in specified physical zones of the ESA; and

*(e)* any other activities permitted by the Relevant Authority in accordance with the Management Plan and objectives set out in Part II.

2. The relevant Authority shall implement mitigation measures in the ESA, including—

*(a)* development of public awareness and education programmes;

*(b)* enforcement of existing law;

*(c)* fire prevention and control of squatting;

*(d)* visitor management;

*(e)* training of the Environmental Officers and other persons involved in the management and use of the ESA;

*(f)* community liaison;

*(g)* local community participation;

*(h)* adaptive Management Strategies designed to address present and future challenges to the ESA; and

*(i)* any other mitigation measures prescribed in accordance with the Management Plan.

103/2001.
[186/2008].

# CERTIFICATE OF ENVIRONMENTAL CLEARANCE (DESIGNATED ACTIVITIES) ORDER

*made under section 35(1)*

Citation.

**1.** This Order may be cited as the Certificate of Environmental Clearance (Designated Activities) Order.

Designated activities. Schedule.

**2.** The activities listed in the Schedule are designated activities requiring a Certificate of Environmental Clearance, the grant of which signifies approval of the activity solely in terms of the environmental impact.

## SCHEDULE

## (DESIGNATED ACTIVITIES)

| | ACTIVITY | DEFINITION |
|---|---|---|
| 1 | Poultry, pig, cattle and other animal husbandry and production | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a poultry, cattle, pig or other livestock farm in excess of 250 heads of poultry or 25 heads of cattle, 25 heads of pigs or 25 heads of other livestock;<br>*(b)* The establishment, modification, expansion, decommissioning or abandonment of a facility for the hatching, breeding or slaughtering of 250 heads of poultry, or 25 heads of cattle, 25 heads of pigs or 25 heads of other livestock, per year. |
| 2 | Establishment of a facility for game propagation | The establishment, modification, expansion and abandonment (inclusive of associated works) of a game propagating facility. |
| 3 | Establishment of a facility for Mariculture/aquaculture | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for fish/shellfish processing and/or, a facility for fish/shellfish propagation with a total pond area of 2.5 hectares or more. |
| 4 | Horticultural farming | The establishment, modification, expansion, or decommissioning (inclusive of associated works) of a horticultural farm of a total area of more than 2 hectares or a processing facility, with a production capacity of more than 20 kilograms per day. |

## (DESIGNATED ACTIVITIES)—*Continued*

| | ACTIVITY | DEFINITION |
|---|---|---|
| 5 | Timber cultivation or extraction of logs | *(a)* The establishment of a timber plantation of more than one hectare or the expansion of an existing plantation by more than 2 hectares;<br>*(b)* Logging or extraction (inclusive of associated works) in a timber plantation or in a forested area of 1 hectare or more during a five-year period;<br>*(c)* The establishment, modification, expansion, decommissioning or abandonment of a sawmill. |
| 6 | Establishment of a fruit or vegetable farm | The establishment, or expansion of a vegetable crop or fruit farm of an area in excess of 2 hectares during a two-year period. |
| 7 | Generation of electricity | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of an electricity generating plant with a capacity of 50 megawatts or greater. |
| 8 | Clearing, excavation, grading and land filling | Except for the purposes of mining, processing or storage of clay, andesite, porcellanite, limestone, oil sand, sand(s), gravel or other non-metallic minerals in respect of an area of less than one hundred and fifty acres—<br>*(a)* the clearing, excavation, grading or land filling of an area of more than 2 hectares during a two-year period;<br>*(b)* the clearing of more than one-half a hectare of a forested area during a two-year period; or<br>*(c)* the clearing, excavation, grading or land filling of any area with a gradient of 1:4 or more. |
| 9 | Waterproofing/caulking/paving | The establishment of a paved area (inclusive of associated works) of more than 4, 500 square metres during a two-year period. |

| | ACTIVITY | DEFINITION |
|---|---|---|
| 10 | Establishment of institutional facilities and other facilities | *(a)* The establishment, decommissioning or abandonment (inclusive of associated works) of the following facilities with a capacity for 500 or more persons including staff:<br>(i) institutional facilities such as an educational facility, a hospital, a health centre, a nursing home, a prison/correctional facility; and<br>(ii) other facilities such as sporting complexes, shopping malls, etc.<br>*(b)* The modification or expansion (inclusive of associated works) of the following facilities in order to cater for 500 or more persons including staff:<br>(i) institutional facilities such as an educational facility, a hospital, a health centre, a nursing home, a prison/correctional facility; and<br>(ii) other facilities such as sporting complexes, shopping malls, etc. |
| 11 | Establishment of hotels, guesthouses, etc. | The establishment, modification, expansion, or decommissioning or abandonment (inclusive of associated works) of an hotel, inn, etc., with a capacity of 30 rooms or more. |
| 12 | Land reclamation | The reclamation of land (inclusive of associated works). |
| 13 | Coastal or offshore construction or modification and dredging activities | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of marinas, piers, slipways, jetties or other coastal features;<br>*(b)* The establishment, modification, or expansion (inclusive of associated works) of artificial reefs or other offshore structures;<br>*(c)* The dredging or cutting of coastal or marine areas. |

## (DESIGNATED ACTIVITIES)—*Continued*

| | ACTIVITY | DEFINITION |
|---|---|---|
| 14 | Manufacture or processing of foods, food products and condiments. | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the processing, canning, bottling or packaging of meats or fish (and their associated products);<br>*(b)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the processing, canning, bottling or packaging of 10 tonnes per year or more of the following:<br>dairy products; margarines or vegetable oils; fruits, vegetables; fruit or vegetable juices; jams, jellies, pastes or sauces; preserves-products, fruits or vegetables; pre-cooked meats, fruits or meals; carbonated beverages; artificially flavoured beverages; coffee or coffee related products; cocoa or cocoa related products; sugar confectionery; baked products; spices, seasonings, flavouring extracts and other condiments. |
| 15 | Establishment of a facility for granaries and grain mills | The establishment, modification, decommissioning, abandonment or expansion (inclusive of associated works) of a granary or grain mill. |
| 16 | Establishment of a facility for sugar | The establishment, modification, decommissioning, abandonment or expansion (inclusive of associated works) of a sugar manufacturing or refining facility. |
| 17 | Establishment of a facility for alcoholic beverages, wines and spirits | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a distillery, brewery or other facility for the manufacture of alcoholic beverages, wines and spirits. |

| | ACTIVITY | DEFINITION |
|---|---|---|
| 18 | Establishment of a facility for materials used in construction | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a plant for the manufacture of raw materials or products used in construction;<br>*(b)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the packaging/containment of asphalt and cement. |
| 19 | Establishment of a facility for petroleum products, petrochemicals or petrochemical products. | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the manufacture of petrochemicals; petrochemical products; petroleum products, including asphalt or bitumen. |
| 20 | Manufacture of goods and products other than petroleum products, petrochemicals or petrochemical products | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a chemical manufacturing plant;<br>*(b)* The establishment (inclusive of associated works) modification, or abandonment of an industrial gas production, processing, compression or liquefaction plant;<br>*(c)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the manufacture or assembly of: paints, coatings or allied products; pharmaceutical or cosmetic products; household products; personal hygiene products; textiles; fibres or fibre products; dyes; inks; wearing apparel; paper or paper products; furniture or household fixtures; plastic or plastic products; rubber products; batteries or associated components; automobiles; automotive spare parts or components; adhesives or adhesive products; polymers or polymer products; glass or associated products; appliances or components; electrical products or components; asbestos or asbestos containing products; or leather;<br>*(d)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for printing and packaging. |

## (DESIGNATED ACTIVITIES)—*Continued*

| | ACTIVITY | DEFINITION |
|---|---|---|
| 21 | Establishment of a facility for production or refining of metals or their related products | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the production or reforming of metals or related products (including lead recovery from batteries). |
| 22 | Establishment of a facility for metal ore mining and processing | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the extraction, or processing or storage of metal ore. |
| 23 | Establishment of a facility for non-metallic mining and processing | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the mining, processing or storage of clay, andesite, porcellanite, limestone, oil sand, sand(s), gravel or other non-metallic minerals. |
| 24 | Exploration for crude oil or natural gas | The conduct of all works related to this activity. |
| 25 | Establishment of a facility for primary or secondary production of crude oil, condensate or associated gas | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the extraction or production of crude oil or production of associated gas or condensates. |
| 26 | Establishment of a facility for natural gas or condensate production | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for natural gas or condensate production;<br>*(b)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a natural gas compression, blending or liquefaction facility. |

| | ACTIVITY | DEFINITION |
|---|---|---|
| 27 | Establishment of infrastructure for pipeline systems | The establishment, modification or expansion (inclusive of associated works) of a pipeline or pipeline systems for transmission of produced fluids, crude oil or natural gas. |
| 28 | Establishment of infrastructure for crude oil refining | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of crude oil refinery. |
| 29 | Establishment of infrastructure for the storage of petroleum or liquid petroleum gas or their derivatives | The installation, expansion, decommissioning or abandonment (inclusive of associated works) of a storage facility with a gross capacity of more than 500 barrels. |
| 30 | Establishment of infrastructure for receipt and transmission of electromagnetic waves | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of satellite to earth stations for the purpose of rendering communication services to the public. |
| 31 | Establishment of parks, nature trails and other recreational areas | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a park, nature trail, board walk or other recreational facility supporting a potential visitor use 500 or more individuals per day;<br>*(b)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a golf course. |
| 32 | Establishment of infrastructure for air transportation | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of an airport, heliport, aerodrome or landing strip. |
| 33 | Establishment of infrastructure for land transportation | *(a)* The establishment (inclusive of associated works) of a road of more than 1 kilometre in length;<br>*(b)* The extension/expansion (inclusive of associated works) of a road by more than 1 km or by 35% or more of its length or width. |

## (DESIGNATED ACTIVITIES)—*Continued*

| | ACTIVITY | DEFINITION |
|---|---|---|
| 34 | Establishment of infrastructure for marine transportation | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a marine terminal, harbour/port or facilities for dry-docking or ship repair or construction. |
| 35 | Establishment of a facility for solid waste disposal | The establishment, modification, expansion, decommissioning or abandonment of a solid waste disposal facility inclusive of the disposal of industrial waste, aircraft and ship generated waste. |
| 36 | Establishment of a facility for hazardous or toxic substance handling | The establishment, modification, expansion, decommissioning or abandonment of a facility for handling, storage, treatment or disposal of hazardous substances. |
| 37 | Recovery, recycling or incineration of waste | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the recovery or recycling or incineration of waste. |
| 38 | Catchment, abstraction or treatment of potable/process water | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a facility for the catchment, abstraction or treatment for distribution of potable or process water;<br>*(b)* The establishment, modification, decommissioning or abandonment of waterwells or other infrastructure (inclusive of associated works) to make available potable or process water;<br>*(c)* The establishment, modification, expansion, decommissioning or abandonment of a desalination plant. |
| 39 | Establishment of surface impoundments, dams or reservoirs for storage of water | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of surface impoundments, dams or reservoirs for storage of water. |

| | ACTIVITY | DEFINITION |
|---|---|---|
| 40 | Establishment of water distribution systems | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of pipeline distribution systems for the delivery of potable, process water or sewage;<br>*(b)* The laying of water and sewage mains (inclusive of associated works) along an existing or a new right of way for distances of more than 1 kilometre during a two-year period. |
| 41 | Establishment of land drainage and irrigation schemes | *(a)* The establishment, modification, or expansion (inclusive of associated works) of a land drainage or irrigation scheme for a parcel of land or more than 1 hectare during a two-year period;<br>*(b)* The establishment of a flood control system or a water supply impoundment for a parcel of land of more than 1 hectare during a two-year period;<br>*(c)* The realignment or modification of drainage or river systems. |
| 42 | Establishment of waste water or sewage treatment facilities | The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of a waste water or sewage treatment facility. |
| 43 | Provision of other service-oriented activities | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of an automotive repair garage, autobody shops, gasoline/service stations or vehicle inspection stations;<br>*(b)* The establishment, modification, expansion, decommissioning or abandonment of a laundry (wet or dry cleaning);<br>*(c)* The establishment, modification, decommissioning or abandonment (inclusive of associated works) of a commercial kitchen with a water consumption of 9 cubic metres or more per day;<br>*(d)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of chemical or medical or other scientific research laboratories. |

## (DESIGNATED ACTIVITIES)—*Continued*

| | ACTIVITY | DEFINITION |
|---|---|---|
| 44 | Cemeteries and Crematoriums | *(a)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) or burial grounds for human remains with an area of 500 squares metres or more;<br>*(b)* The establishment, modification, expansion, decommissioning or abandonment (inclusive of associated works) of crematoria or pyre sites for human remains. |

## CERTIFICATE OF ENVIRONMENTAL CLEARANCE (FEES AND CHARGES) REGULATIONS

91/2001. [217/2001].

*made under section 96(2)*

Citation.

**1.** These Regulations may be cited as the Certificate of Environmental Clearance (Fees and Charges) Regulations.

Interpretation.

**2.** In these Regulations—

"activity" means an activity listed in the Schedule to the Order;

"Certificate" means a Certificate of Environmental Clearance issued under section 36(1) of the Act;

"EIA" means an environmental impact assessment;

"Order" means the Certificate of Environmental Clearance (Designated Activities) Order; Sub. Leg.

"rule" means a rule of the Certificate of Environmental Clearance Rules; Sub. Leg.

"TOR" means the terms of reference for an EIA.

Fees.

**3.** The fee payable to the Authority for and in relation to—

*(a)* an application under rule 3(1) is $500.00;

*(b)* an extract from the Register under rule 9(2) is $0.50 per page; and

*(c)* a transfer of Certificate under rule 11(3) is $500.00.

Charges. [217/2001].

**4.** (1) The charges payable to the Authority for and in relation to the processing of an EIA under rules 4(1)*(d)* and 5(1)*(c)* are as follows:

*(a)* in respect of activities listed in items 1, 2, 3, 4, 5, 6, 10, 11, and 31 is $5,000.00;

*(b)* in respect of activities listed in items 7, 8, 9, 13, 14, 15, 16, 17, 18, 33, 38 and 43 is $10,000.00;

*(c)* in respect of activities listed in items 22, 23, 30, 32, 35, 37, 40, 41 and 44 is $20,000.00; and

*(d)* in respect of activities listed in items 12, 19, 20, 21, 24, 25, 26, 27, 28, 29, 34, 36, 39 and 42, is a minimum of $100,000.00 and a maximum of $600,000.00.

(2) The services for which charges are payable include consideration of applications under rules 4 to 7, the use of specialised expertise external to the Authority, site inspections and the preparation of TOR under rule 5.

(3) Charges paid to the Authority pursuant to 4(1)*(d)* above, where it exceeds $100,000.00 shall require a statement of expenses from the Authority identifying the cost items that resulted in the charges exceeding $100,000.00.

# ENVIRONMENTAL COMMISSION RULES OF PRACTICE AND PROCEDURE

ARRANGEMENT OF RULES

**RULE**

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**SCHEDULE I.**
**SCHEDULE II.**

135/2002.

# ENVIRONMENTAL COMMISSION RULES OF PRACTICE AND PROCEDURE

*made under section 84(15)*

## 1. CITATION, APPLICATION AND DEFINITIONS

Citation.

1.1 These Rules may be cited as the Environmental Commission (Practice and Procedure) Rules.

Reference to a Rule.

1.2 A rule may be referred to by the number given to it.

Application of Rules.

1.3 These Rules apply to all proceedings *mutatis mutandis* before the Commission.

1.4 The Commission may exercise any of its powers under these Rules on its own initiative or at the request of any party.

1.5 In any proceedings before the Commission, directions may be given as to the procedure to be followed in respect of a matter not dealt with by the Act or these Rules. Such directions may be guided by the Rules of the Supreme Court 1975.

1.6 No proceeding is invalid by reason only of a defect or other irregularity in form.

Definitions.

1.7 In these Rules—

"Act" means the Environmental Management Act;

"applicant" includes any person who files proceedings original, interlocutory or appellate as permitted by the Act;

"Authority" means the Environmental Management Authority established under section 6 of the Act;

"Commission" means the Environmental Commission established under section 81 of the Act, and includes a panel thereof or individual member of the Environmental Commission as permitted by the Act;

"conference" means a meeting conducted by a member of the Commission which is part of the proceedings, (but not part

of the hearing) held for several purposes, including the identification of issues, the scheduling of the delivery of documents, the mediation or settlement of some or all of the issues in dispute;

"document" includes—

*(a)* a notice of hearing, forms, correspondence, memoranda, files, books of account, agreements, reports, charts, graphs, and any other written or pictorial communication;

*(b)* a sound recording, videotape, photograph, map, plan, survey or like thing;

*(c)* information recorded or stored by means of any device, including computer files; and

*(d)* facsimiles or copies of documents;

"fax" means electronic transmission of a facsimile of a document;

"file" means to lodge at the Registry, in the form and condition acceptable to the Registrar, together with payment of the prescribed fee (if any);

"hearing" means the hearing of the proceedings before the Commission for which notice has been given in which the Commission is empowered to make a final determination of the proceedings, or the hearing of an interlocutory application in advance of such hearing;

"interlocutory application" means a request for the ruling of the Commission or decision on a particular issue at any stage within a proceeding or intended proceeding, and includes an application for a stay or an interim stay of an order or decision of the Authority or of the Commission;

"mediation" includes all forms of facilitation, settlement conferences and other forms of negotiation;

"notice of proceedings" means a notice, the filing and sealing of which in the Registry commences a proceeding before the Commission;

"party" means—

*(a)* the applicant in original, interlocutory or appellate proceedings;

*(b)* the person whose decision is the subject of the notice of the appeal before the Commission; and

*(c)* for the purpose of these Rules, any person whom the Commission determines to be a party;

"representative" means an Attorney-at-law or an agent duly authorised to represent a person in a proceeding.

## 2. TIME

2.1 A period of time fixed by these Rules or by a judgment, decision or order or by a document in any proceedings is to be reckoned in accordance with this Rule.

2.2 If a time of one day or longer is to be reckoned by reference to a given day or event, the given day or event is not to be counted.

2.3 If a period is five days or less and would (but for this subrule) include a day on which the Registry is closed, the day is not to be counted.

2.4 If the last day for doing a thing is a day on which the Registry is closed, the thing may be done on the next day on which the Registry is open.

Extension or abridgement of time.

2.5 The Commission may by order and on terms, extend or abridge any time fixed by these Rules or by any judgment, decision or order, of the Commission.

2.6 The Registrar with the consent of the parties may by order and on terms, extend or abridge any time fixed by these Rules.

2.7 Time may be extended under this rule before or after the time expires, whether an application for the extension is made before or after the time expires.

## 3. ADMINISTRATION

Registry.

3.1 There shall be a Registry for the Commission in Port-of-Spain and in any other place as may hereafter be determined by the Chairman.

3.2 The Registry shall be under the control and direction of the Registrar. In exercising that control and direction, the Registrar is to obey any direction by the Chairman.

Seal of the Commission.

3.3 The Seal of the Commission shall be an impressed seal with the wording "The Seal of the Environment Commission of Trinidad and Tobago". The Registrar shall have custody of the Seal.

3.4 Orders of the Commission (or copies of them) when issued out of the Commission and warrants of the Commission shall be sealed with the Seal of the Commission.

Sittings of the Commission.

3.5 The places, dates and times of the sittings of the Commission are to be published if, and in such manner, as the Chairman directs.

Vacation and office hours.

3.6 The Commission shall observe the same vacation periods as the Supreme Court of Judicature of Trinidad and Tobago.

3.7 This Rule does not affect any right to leave or extended leave, of any member of the Commission or officer of the Commission.

3.8 The offices of the Commission shall be open on every day of the year except—

*(a)* Saturdays and Sundays;

*(b)* Carnival Monday and Tuesday;

*(c)* public holidays;

*(d)* the next working day after Christmas day; and

*(e)* Tuesday after Easter,

between 8.00 a.m. and 4.00 p.m. However, if the Chairman gives directions as to opening at other times and other days, the Registrar shall follow those directions.

## 4. THE REGISTRAR

Documentation kept or issued by the Registrar.

4.1 The Registrar shall keep the books, files and other records of the Commission and is to ensure that the appropriate entries are made in them. The Registrar shall retain custody of all documents filed in any proceedings.

4.2 The Registrar shall issue and sign the process of the Commission.

4.3 The Registrar shall keep an account of all fees, fines and money paid or payable into the Commission, give such receipts as are required under any law, and pay out any money to which a party is entitled.

4.4 The Registrar shall produce to an officer authorised by the Auditor General any book, file, or other record kept by the Registrar (whether or not it is a book of account) which the officer requires to be produced in the course of the officer's duties.

4.5 The Registrar may delegate any of the functions referred to in subrules 4.1–4.4 to any other officer in the Registry as the Registrar sees fit.

Registrar's orders by consent.

4.6 Except where otherwise expressly provided by the Act, these Rules, or any Practice Direction, the Registrar may exercise the powers of the Commission to make any order which the Commission may make, being an order consented to—

*(a)* by the parties to the application for the order; and

*(b)* by any other person who will be required to comply with the order or to permit anything to be done under the order.

Direction to Registrar or to other officer.

4.7 The Commission may by order direct the Registrar or any other officer of the Commission to do or to refrain from doing, in any proceedings, any act relating to the duties of the officer's office.

4.8 An application for an order under rule 4.7 is to be made by affidavit filed in the proceedings and served upon the officer concerned.

Referral of proceedings to Commission.

4.9 The Registrar may, of his own motion or on an application by a party, refer any proceedings before him to the Commission.

Removal of proceedings to Commission.

4.10 The Commission, before the conclusion of any proceedings before the Registrar, may on application by a party, order that the proceedings be removed into the Commission.

Disposal of referred or removed proceedings.

4.11 Upon the referral of any proceedings to the Commission under rule 4.9 or the removal under rule 4.10, the Commission may—

*(a)* hear and determine any matter in the proceedings in respect of which the proceedings were before the Registrar;

*(b)* determine any question arising in the proceedings and remit the proceedings to the Registrar with such directions as the Commission thinks fit;

*(c)* on the application of a party, dismiss or strike out a matter for want of prosecution, where it is deemed to have lapsed by reason that it has remained dormant without any step in its progress having been taken for a period of ninety (90) days. The matter will be reinstated if the party provides good and sufficient reason so to do and subject to the payment of costs including the costs of the Commission; or

*(d)* accept or continue an undertaking given to the Commission.

Review of Registrar's Action.

4.12 If the Registrar gives a direction, makes an order or does any act in any proceedings, the Commission may, on application by any party, review the direction, order or act, and make such order by way of confirmation, variation, discharge or otherwise as the Commission directs.

## 5. COMMENCEMENT OF PROCEEDINGS

5.1 Proceedings are commenced by filing at the Registry the original and four copies of one of the following Notices of Proceedings:

*(a)* Notice of Application (*see* Schedule I, Form 1);

*(b)* Notice of Appeal (*see* Schedule I, Form 2);

*(c)* Notice of Application for Administrative Civil Assessment under section 66 of the Act (*see* Schedule I, Form 3); or

*(d)* Notice of Direct Private Party Action under section 69 of the Act (*see* Schedule I, Form 4).

5.2 A Notice of Application shall—

*(a)* include a title of the application;

*(b)* include a full description of the nature of the application;

*(c)* specify any remedy that is being sought by the applicant;

*(d)* state the name and address of all persons intended to be served with the notice of application;

*(e)* state whether the proceedings are filed out of time and if so, shall be endorsed with a reason for a late filing; and

*(f)* be accompanied by the decision, order of designation, Consent Agreement or Administrative Order of the Authority.

5.3 (1) A Notice of Appeal shall include—

*(a)* a statement of the order or decision appealed against;

*(b)* the provision of the Act under which the notice of appeal is submitted;

*(c)* the name and title of the person whose decision is the subject of the notice of appeal and the details of the decision objected to;

*(d)* the grounds of appeal including the reasons why the appellant objects to the decision;

*(e)* a description of the relief requested by the person objecting;

*(f)* the signature of the person objecting, or the person's agent; and

*(g)* an address for service for the person objecting.

(2) A Notice of Appeal shall be filed within 28 days of the date of service of the order or decision against which the appeal is filed and must be accompanied by—

*(a)* a copy of the order or decision of the Authority;

*(b)* a list of the names and addresses of all owners of property within 120 metres of the boundary of the property which is the subject of the order or decision; and

*(c)* a list of the names and addresses of any other persons who should be notified of the proceedings because they may have an interest in the outcome.

5.4 A Notice of Application for Administrative Civil Assessment shall include—

*(a)* the same particulars as required under rule 5.2 and the relevant particulars under section 66 of the Act; and

*(b)* the Administrative Order.

5.5 A Notice of Direct Private Party Action shall include—

*(a)* the same particulars as required under rule 5.2;

*(b)* the notice of violation alleged;

*(c)* proof of written notice of alleged violation to the Managing Director of the Authority in compliance with section 69(1)*(a)* of the Act; and

*(d)* proof of compliance with section 69(1)*(b)* of the Act.

## 6. SERVICE

Mode of Service of Notice of Proceedings.

6.1 A sealed notice of proceedings must be personally served on each respondent together with the copies of all accompanying documents within 14 days of filing.

6.2 Personal service on a party may be effected by delivering a copy to the party personally.

6.3 A copy may be delivered to a person by handing it to the person or by leaving it in the person's presence and informing the person of its nature.

6.4 Except where personal service is required, service on a party may be effected by delivering a copy at the residence or place of business of the party to a person apparently not less than sixteen years old and apparently residing at that residence or employed at that place of business.

6.5 For service of a document to be regular it is not necessary for the original to be produced to any person.

Service of other documents.

6.6 Documents other than a notice of proceedings may be served on a party by the server or his agent unless the Commission orders otherwise.

Mode of Service of Other Documents.

6.7 Where a document other than a notice of proceedings is to be served on any person, it may be served by any of the following methods:

*(a)* personal service in accordance with rule 6.1–6.3;

*(b)* registered mail;

*(c)* delivery by courier service;

*(d)* facsimile transmission; or

*(e)* E-mail.

Address for Service.

6.8 If a party has given an address at which documents for him shall be served, the documents must be delivered or posted to him at that address.

6.9 If the party has given a facsimile transmission number in his address for service the documents shall be sent to him by facsimile transmission to that number.

6.10 If a party to be served has not given an Address at which documents for him shall be served, documents shall be served at—

*(a)* the business address of any attorney who purports to act for him in the proceedings;

*(b)* in the case of an individual, his usual or last known place of residence; or

*(c)* in the case of a proprietor of a business, either—

(i) his usual or last known place of residence; or

(ii) his place or last known place of business.

6.11 A party may change the address for service by filing and serving a notice of the change showing the new address for service.

Days when Service cannot be effected.

6.12 Service cannot be effected on a Sunday or any public holiday, unless authorised by the Chairman.

Doubtful Service.

6.13 In the case of a doubtful service, the Commission may not allow any fresh steps in proceedings to be taken against a party, and may adjourn or strike out the proceedings, or order fresh process to issue, as it considers just.

6.14 In subrule 6.13 "doubtful service" refers to a case where service of any document on a party has not been personal, and the Commission is satisfied on the evidence before it that the document

either did not come to the knowledge of the party within reasonable time, or on that evidence, that the service is in doubt.

Substituted Service.

6.15 If for any reason it is impractical to effect service of a document on a person in any of the modes prescribed in this rule for that service, the Commission may, on application supported by an affidavit showing grounds, direct that, instead of service, such steps be taken as specified in the order for the purpose of bringing the document to the notice of the person.

6.16 If the Commission makes an order under this rule, it may order that service be taken to be effected on the happening of any specified event, or on the expiry of any specified time.

Deemed Service.

6.17 If it is impractical for any reason to effect service of a document, but steps have been taken for the purpose of bringing, or having a tendency to bring the document to the notice of the party, the Commission may, if it thinks fit, direct that the service be deemed to have been effected on a date specified in the order (e.g., fourteen days after posting the document is deemed to be served).

6.18 The Commission may dispense with service of a document if it is appropriate to do so.

Service on Attorney-at-law.

6.19 If an Attorney endorses on any process a note that he accepts service of the process on behalf of any person, process is taken to have been duly served on the person on the date on which a copy of the process was delivered to the Attorney or left at the Attorney's office.

Service on Attorney-at-law (Other Documents).

6.20 Delivery of a copy of a document in proceedings to a party's Attorney, or leaving a copy at the Attorney's office, or sending a copy by post addressed to the Attorney at the Attorney's office, is taken to be good service of the document on the party as on the day when the copy is delivered or left, or would have been delivered in the ordinary course of post, as the case may require.

6.21 Delivery by any particular electronic means to the Attorney's office of a reproduction of the document or copy, is sufficient service on that party as on the day after that delivery, if the Attorney has indicated in writing that delivery by those means is acceptable as service.

6.22 Subrules 6.20–6.21 apply in a case where a party has on the record of any proceedings an Attorney acting for him. These rules do not apply to or in respect of the service of any originating process or document if that service must be personal.

Identity.

6.23 For the purposes of the proof of service, evidence of a statement by a person of the person's identity, or that the person holds some office, as evidence of that identity or that the person holds the office, as the case may be, shall be admissible.

Service on Companies.

6.24 Service on a company which is a party may be effected by delivery to a director, officer, receiver, receiver-manager or liquidator or to the general manager of the company, or its registered office.

6.25 Subrule 6.24 applies where no other law applies to service on the company.

Service on unregistered firm.
Ch. 82:85.

6.26 If a person is carrying on a business within Trinidad and Tobago under a business name not registered under the Registration of Business Names Act, any process or document relating to any proceeding may be served on such person—

*(a)* by leaving it at a place within Trinidad and Tobago where the business is carried on with someone apparently engaged (whether employee or otherwise) in the business and apparently not less than sixteen years old; or

*(b)* by sending it by registered mail addressed to the business name, or to the person at a place within Trinidad and Tobago where the business is carried on.

6.27 This rule applies whether or not the person is named in the proceedings in his name or in a business name.

6.28 Service according to this rule has effect as personal service.

Ch. 82:85.

6.29 Subrules 6.26–6.28 do not limit the operation of the Registration of Business Names Act, or of any other Act or Regulation relating to service.

Response to Service of Proceedings.

6.30 Upon being served with a notice of proceedings other than a notice of direct private party action, the Authority shall within 10 days file with the Commission a list of the names and addresses of any other persons who the Authority considers should be notified of the proceedings, because they may have an interest in the outcome.

6.31 A party other than the Authority served with a notice of proceedings must file within 28 days of service a statement of case in opposition to the application and copies of all documents relevant thereto.

6.32 The Authority upon being served with a Notice of Application or a Notice of Appeal must file within 28 days a Reply or Statement of Defence and copies of all documents relevant thereto.

## 7. PRELIMINARY HEARING AND CONFERENCE

7.1 A Preliminary hearing may be held to deal with any of the following:

*(a)* identifying parties and other interested persons and the scope of their participation in the hearing;

*(b)* determining the length, schedule and the location of the hearing;

*(c)* determining whether the hearing will be conducted orally, electronically or in writing;

*(d)* hearing preliminary interlocutory applications, including interlocutory applications to dismiss for non-compliance;

*(e)* addressing procedural issues;

*(f)* identifying, defining and simplifying issues;

*(g)* arranging for the exchange among parties of all documents relevant to the proceeding;

*(h)* identifying witnesses;

*(i)* establishing facts or evidence that may be agreed on;

*(j)* parties agreeing on a joint expert;

*(k)* scheduling an alternative dispute resolution process (most probably mediation) prior to the date set for the hearing; and

*(l)* any other matters that may assist in the just and expeditious disposition of the proceedings.

7.2 Any representative attending a preliminary hearing or conference must have the authority to make procedural or other agreements and give undertakings respecting the matters to be addressed.

## 8. ADJOURNMENTS

8.1 If, after the notice of the date of hearing of any proceedings has been given, the parties want an adjournment, they should communicate with the Registrar at least five days before the date of hearing or its continuance, stating the grounds for an adjournment. However, such a request for adjournment, though by consent, may not necessarily be granted. If an adjournment is sought at a late stage, the Commission may order payment of costs, including the costs of the Commission. In granting or refusing an adjournment the Commission may impose such conditions as it considers appropriate.

## 9. INTERLOCUTORY APPLICATIONS

9.1 This Rule applies to an interlocutory or other application in relation to any proceedings, other than an application by which proceedings are started.

9.2 An interlocutory application in respect of any proceedings shall be made by filing in the proceedings the following documents:

*(a)* an application in Form 5 of the Schedule I;

*(b)* all affidavits and other documents in support of the application; and

*(c)* a draft of the order sought.

9.3 Once the documents are filed as required by this rule, the Registrar shall, as soon as practicable, submit all documents filed in the proceedings (including those required by this rule) to the Chairman or Deputy Chairman of the Commission for consideration of the application and the hearing thereof.

9.4 The Commission may not hear an interlocutory application unless the requisite documents have first been filed in the proceedings and have been served on each party.

9.5 However, a party may move the Commission without previously filing or serving notice of the interlocutory application—

*(a)* if the preparation of the application, its filing or service (as the case may be) would cause undue delay or other mischief to the applicant;

*(b)* if each party interested, other than the applicant consents to the order; or

*(c)* if the Commission dispenses with the requirements of rule 9.4.

9.6 Every interlocutory application shall—

*(a)* state the precise relief sought;

*(b)* state the grounds to be argued, including a reference to any statutory provision or rule to be relied on;

*(c)* list and exhibit the documentary evidence to be used at the hearing of the application;

*(d)* name each party to be affected by the order which is sought; and

*(e)* bear a note of any previous order made by the Commission in connection with the subject matter of the application.

Time for Service.

9.7 If an interlocutory application is required to be served, it must, unless the Commission otherwise orders, be served not less than three clear days before the date fixed for the hearing of the application.

9.8 Nothing in these Rules shall prohibit the Commission from ordering that time be abridged or extended for the service of an interlocutory application.

Hearing date for Interlocutory Applications.

9.9 A hearing date shall be obtained from the Registrar before the application is served and it shall be endorsed on the copies for service.

Affidavits.

9.10 Unless the Commission permits oral evidence, the evidence in the hearing of an interlocutory application shall be by affidavit. A party who intends at the hearing to rely on any affidavit must file the affidavit in the proceeding and serve a copy on every other interested party (except a party on whom service of an interlocutory application is dispensed with in accordance with these Rules) not less than two days before the hearing or within such period as the Commission may order.

9.11 Every affidavit shall be endorsed with a note showing on whose behalf it is filed and the dates of swearing and filing, and an affidavit which is not so endorsed, must not be filed or used without the leave of the Commission.

Hearing of Interlocutory Application.

9.12 The Commission, on the hearing or adjourned hearing of any interlocutory application, may make or refuse the order sought and may make such other order or give directions as may be just.

9.13 An interlocutory application in relation to any proceedings shall include, so far as is practicable, all or as many applications as the applicant may wish to make in relation to the proceedings and having regard to the nature of the proceedings, can conveniently be dealt with at the same time.

9.14 On the hearing or the adjourned hearing of the interlocutory application, any respondent is at liberty to make an application for an order in relation to the proceedings.

9.15 The Commission may either grant or refuse the order applied for by the respondent, and give such directions as may be just, or may adjourn the hearing of the application and direct that notice be given of the application.

9.16 If the Commission grants or refuses any order upon the hearing or adjourned hearing of an interlocutory application, it may do so on terms.

## 10. MEDIATION

Purpose of Mediation.

10.1 In accordance with section 84(3) of the Act, the Commission encourages parties to consider mediation and other alternative dispute resolution procedures. Mediation, which is part of the proceeding before the Commission but not a part of the hearing, may be held for the purpose of attempting to reach a settlement of the issues, or at least their simplification. It is conducted in confidence, by a member of the Commission, Commission staff or a person appointed by the Commission. If no settlement is reached on the issues, the hearing will take place with no reference to the information disclosed during the mediation, except with the consent of the parties. The Commissioner who conducted the mediation may sit or continue to sit as a Commissioner exercising jurisdiction to hear and determine the matter.

Time for Mediation.

10.2 Parties may apply to the Commission for referral to mediation of a matter arising in proceedings at any time after the commencement of those proceedings.

Adjournment of Proceedings.

10.3 If the parties consent to referral to mediation, the proceedings will stand adjourned to enable the mediation to be conducted, unless the Commission considers that, in all the circumstances, they should not be adjourned.

Statement of Issue.

10.4 At least seven days before a mediation session is to commence, the parties shall exchange statements of the issues that are in dispute between them and supply copies to the Commission.

Appointments and Directions.

10.5 The Member of the Commission or other person to whom a matter is referred for mediation—

*(a)* shall, within seven days of being notified of the referral, in writing, appoint a time and place for mediation;

*(b)* may appoint a preliminary meeting of the parties; and

*(c)* may give directions relating to preparations for and the conduct of the mediation.

Attendance and Representation.

10.6 A mediation session shall be attended by each party or, by a representative having authority to settle the matter.

10.7 Other persons may attend a mediation session with the leave of the mediator.

Conclusion and Outcome of Mediation.

10.8 The mediator shall within seven days of the conclusion of the mediation, advise the Commission of that fact but not the details thereof.

10.9 The parties may advise the Commission of the terms agreed between them, of any agreement or arrangement arrived at or arising out of a mediation session.

Termination.

10.10 A mediator may terminate a mediation.

10.11 A party may terminate a mediation at any time by giving notice of the termination to the Commission, the mediator and every other party.

10.12 If a mediation is terminated, the proceedings are sent to the Chairman for further directions, if necessary.

Confidentiality.

10.13 All documents submitted and all statements made at the mediation are confidential and without prejudice.

10.14 Any confidential documents used at the mediation shall—

*(a)* not be accessible to the public;

*(b)* be returned to the party who submitted the documents after the mediation;

*(c)* not be considered to be filed in the proceedings; and

*(d)* not part of the record.

## 11. HEARING PROCEDURE

Written Submission.

11.1 Every party to a complaint, an application, or appeal, must file a written submission (five copies) with the Commission and serve a copy on every other party at least seven days before the date of hearing.

11.2 A written submission shall contain—

*(a)* a summary of the facts and evidence to be relied on by the party;

*(b)* a list of witnesses to be called on by the party and a summary of the evidence of each witness including photographs and other visual presentations other than models; and

*(c)* the name, address, telephone and fax numbers of an Attorney-at-law or other agent acting on behalf of the other party.

Opening Statements.

11.3 Unless the Commission directs otherwise, at the beginning of every hearing each party shall give a brief opening statement that describes the issues that the party will address at the hearing. The statement should include an outline of the evidence the party intends to introduce, a list of witnesses, the topics to be covered and the amount of time required.

11.4 Unless otherwise required by the Commission, the opening statements will be made in the following order—

*(a)* the applicant/complainant/appellant;

*(b)* the Authority;

*(c)* the Attorney General; and

*(d)* other parties.

Order of Presentation.

11.5 Unless the Commission directs otherwise, the evidence at a hearing shall be presented by the parties in the following order:

*(a)* the applicant/complainant/appellant;

*(b)* other parties whose interest or position is, in the opinion of the Commission, similar to that of the applicant/complainant/appellant;

*(c)* the Authority's representative at the hearing;

*(d)* other parties whose interest or position is, in the opinion of the Commission, similar to that of the Authority;

*(e)* the Attorney General;

*(f)* the witnesses of the Commission, if any; and

*(g)* the applicant/complainant/appellant in reply.

Combining Proceedings or Hearing Proceedings together.

11.6 If two or more proceedings before the Commission involve the same or similar facts, law, or policy, the Commission may, with the consent of the parties, combine the proceedings or any part of them or hear the proceedings at the same time.

Expert Witnesses.

11.7 A witness having technical or special knowledge, who is retained by any of the parties before the Commission to give evidence, shall provide a written *curriculum vitae* of his qualifications and experience.

11.8 In hearings, the Commission will not normally qualify a witness as an expert, but any witness with a degree of specialised knowledge should reference that knowledge on the *curiculum vitae*. Any party may challenge the qualifications of any witness having technical or specialised knowledge, before or during the course of his testimony.

11.9 *Curricula vitarum* shall be filed with the Commission at least seven days prior to the hearing.

11.10 The Commission, in its discretion, will determine the weight to be given each witness' testimony and the witness' qualifications and experience will be a factor in determining the weight to be given such testimony.

Witness Summonses.

11.11 Witness summonses (*see* Schedule I, Form 6) must be served no later than ten working days before the date of hearing, except where the witness would attend willingly, and the issue of a summons is a matter of form, the Commission will not normally issue a witness summons less than five working days before the date of hearing.

## 12. EVIDENCE

Admissibility.

12.1 The Commission shall admit any relevant oral or documentary evidence that is not privileged. Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the proceeding more probable or less probable than it would be without the evidence. The Commission may, however, exclude evidence if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or considerations of undue delay, waste of time, or needless presentation or repetition.

12.2 The fact that evidence is deemed admissible does not mean that it will be determinative of the issue.

Confidential and Sensitive Information. Ch. 7:02.

12.3 Where there is full compliance with the Evidence Act and with any legislation dealing with privilege, the Commission may limit introduction of evidence or issue such protective or other order that in its judgment is required to prevent undue disclosure of classified, confidential or sensitive matters including but not limited to matters of national security, business, or of a personal or proprietary nature.

12.4 Where the Commission determines that information in documents containing classified, confidential or sensitive matters should be made available to another party, the Commission may direct the party to prepare an unclassified or non-sensitive summary or extract of the original. The summary or extract may be admitted as evidence in the record.

12.5 If the Commission determines that the procedure described at rule 11.4 is inadequate and that classified or otherwise sensitive matters must form part of the record in order to avoid prejudice to a party, the Commission may advise the parties and provide opportunity for arrangements to permit a party or representative to have access to such matters.

Written Testimony.

12.6 The Commission may accept and enter into the record direct testimony of a witness made by a sworn written statement rather than by oral presentation at the hearing. A witness whose testimony is presented by a sworn written statement shall be available for cross-examination, as may be required.

Cross-examination.

12.7 Cross-examination shall be limited to the scope of the direct evidence and subject to the discretion of the Commission, and shall always be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Cross-examination will be permitted to the extent necessary for full and true disclosure of the facts. The Commission may, in the exercise of its discretion, permit inquiry into additional matters as if on direct evidence.

Evidence *in Camera*.

12.8 Evidence of a confidential or sensitive nature or evidence so deemed can with the leave of the Commission, be heard *in camera*.

Technical and Scientific Evidence.

12.9 A technical witness is a person who gives scientific and technical observations, tests, measurements and estimates. He may be able to collect this information because of special training and expertise, but is not an expert who interprets scientific and technical evidence and provides opinions.

12.10 An expert witness is someone who has specialised education, training or experience that qualifies him to reliably interpret scientific or technical information or to express opinions about matters for which untrained or inexperienced persons cannot provide reliable opinions.

The Role of the Technical Witness.

12.11 The Commission expects the witness giving technical evidence to remain within his area of competence. The witness should not attempt to interpret the meaning or significance of tests, observations and measurements unless qualified to do so. The witness should disclose in advance to other parties all measurements, tests, observations, and data relating to the issues about which he will give evidence, and disclose in examination-in-chief all information relevant to the issues before the Commission, regardless of which party the information appears to favour.

The Role of the Expert Witness.

12.12 The opinion evidence from a properly qualified expert witness should be based on accurate facts, reliable estimates, and accepted or tested techniques or methods of investigation, measurement and analysis.

Evidence of Technical and Expert Witnesses. Schedule II.

12.13 Technical witnesses as well as the expert witnesses are expected to be guided by the practice hereinafter appearing in Schedule II of these Rules.

Compliance.

Schedule II.

12.14 (1) Failure to comply with rules 12.9–12.13 and the Guidelines for Technical and Expert Witnesses set out in Schedule II referred to in rule 12.13 may result in, among other things—

*(a)* a decision by the Commission to decline to accept the opinions or evidence of an otherwise qualified witness;

*(b)* the evidence being admitted and heard, but accorded little weight;

*(c)* the Commission intervening to ensure that the rules are respected; and

*(d)* the conduct of the witness being noted and may be subject to adverse comment in the decision of the Commission.

(2) Where it appears to the Commission that there has been a breach of professional standards of conduct, an attempt to mislead, incompetence or negligence, extensive violation of these Rules, or serious interference with its process, the Commission may report this to the professional association or licensing body responsible for compliance with its standards of conduct.

## 13. STAY

13.1 A party may apply for a stay of the decision that is the subject of the notice of appeal, or the decision of the Commission and the Commission may grant such a stay at its discretion. An application for a stay shall be in writing, signed by the applicant or his agent, filed with the Commission and served on all parties to the original proceedings.

13.2 Upon an application for a stay, the Commission may—

*(a)* make an order staying the order, decision or original proceedings;

*(b)* dismiss the application for a stay; or

*(c)* issue directions on procedure, inviting submissions from interested persons on whether or not a stay should be granted. Directions on procedure issued shall provide that—

(i) the applicant for a stay shall serve a copy of the directions on procedure on all parties to the original proceedings;

(ii) an interested person filing a submission with the Commission shall serve a copy of

the submission on the applicant for a stay and all parties to the original proceedings;

(iii) the applicant for a stay be given an opportunity to reply to any submissions; and

(iv) the applicant for a stay shall file a copy of any reply with the Commission and serve it on all parties to the original proceedings.

13.3 If the application for the stay relates to the issuing of an enforcement order or an environmental protection order and is made by the person who has been issued the order, the Commission may—

*(a)* require the Authority to take whatsoever action the Commission considers necessary to carry out the terms and conditions of the order, and determine the costs of doing so; and

*(b)* require the recipient of the order to provide security to cover such costs, if the Commission is of the opinion that immediate and significant adverse effects may result, if the terms and conditions of the order are not carried out.

## 14. JOINDER OF PARTIES AND INTERVENTIONS

14.1 Where any matter or issue connected with the subject matter of the proceedings should be determined not only as between the original parties but also as between either or both of them and a person not already a party, such person may make an application to intervene in the proceedings or may be joined as a party on the application of any party.

14.2 Such an application to intervene or to join or be joined shall be in writing and shall contain in addition to particulars in rule 9.2, particulars of the person's interest in the subject matter of the proceedings.

14.3 In order to make a determination of an application to intervene, the Commission shall consider whether—

*(a)* the applicant's participation will materially assist the Commission in deciding the matter by providing testimony, cross-examining witnesses, or offering arguments or other evidence directly relevant to the matter and whether the applicant has a sufficient interest in the subject matter of the proceeding and his intervention will not unnecessarily delay the progress of the matter;

*(b)* the applicant's position is or is not supportive of the proceedings, complaint or appeal;

*(c)* the applicant will not repeat or duplicate evidence presented by other parties; and

*(d)* if the application is late, there are satisfactory reasons therefor.

Action of Person not a Party upon whom a Notice of Proceedings is Served.

14.4 An appellant who claims or requests (such claim or request to be in writing) that the Commission vary, revoke, or provide other relief from the Authority's decision or order because of alleged acts or omissions of a person who is not a party to the appeal shall—

*(a)* within 10 days of the filing of such claim or request, serve that person and the Authority with a Notice of Allegation, including the facts upon which the appellant relies in support of the allegation together with copies of all documents relevant thereto; and

*(b)* within 7 days thereafter, provide the Commission with the person's address, telephone and fax numbers, and file a copy of the notice and proof of service.

14.5 A person served with a Notice of Allegation shall within 10 days of receipt thereof, file with the Commission a list of the names and addresses of any other persons who he considers should be notified of the proceedings, because they may have an interest in the outcome.

14.6 After service of the Notice of Allegation, the recipient and/or the Authority shall, within 21 days thereafter—

*(a)* file an acknowledgement of service (*see* Schedule I Form 7) indicating whether he/it wishes to be heard on the matter or not, and give an address for service, and if he/it wishes to accept further service by fax or e-mail, a telephone number for facsimile transmission or an e-mail address as may be the case; and

*(b)* in the event that the recipient and/or the Authority wishes to be heard on the matter he/it shall file and serve upon all parties his/its reply in the matter together with all documents relevant thereto.

## 15. DISCONTINUANCE OR WITHDRAWAL

Discontinuance.

15.1 A party may, with the leave of the Commission or the consent of the other parties, discontinue or withdraw the whole or any part of the proceedings brought by him.

Withdrawal.

15.2 A respondent may with the consent of the applicant, and all other parties, have the proceedings withdrawn.

Mode of discontinuance or withdrawal.

15.3 A discontinuance or withdrawal shall be made by filing a notice stating the extent of the discontinuance or withdrawal.

15.4 If the discontinuance or withdrawal is by consent, the consent shall be endorsed by each consenting party on the notice before filing.

Service.

15.5 Where leave of the Commission is sought to discontinue or withdraw, an application in that behalf shall be made and notice of such application shall be served on all parties.

## 16. BURDEN OF PROOF

16.1 In a case in which the Commission hears evidence, any party offering such evidence shall have the burden of introducing

appropriate evidence to support its position. Where there is conflicting evidence, the Commission shall decide which evidence to accept and generally act on the preponderance of the evidence.

## 17. COSTS

17.1 Any party to a proceeding before the Commission may make an application for an award of costs on an interim or final basis. A party, in the preparation and presentation of his submissions, may make an application for all costs that are reasonable and are directly and primarily related to the matters in the Application or Notice of Appeal or Direct Private Party Action.

17.2 An application for an award of interim costs may be made by a party at any time prior to the close of hearing.

17.3 An application for interim costs shall contain sufficient information to demonstrate to the Commission that interim costs are necessary in order to assist the party in effectively preparing its submissions at a hearing.

17.4 An award of interim costs is subject to a redetermination in an award of final costs.

17.5 No party shall be entitled to recover any costs of or incidental to any proceedings from any other party to the proceedings, except under an order of the Commission. If the Commission in the exercise of its discretion sees fit to make any order as to the costs of and incidental to any proceedings, the Commission shall order that costs follow the event, except when it appears to the Commission that in the circumstances of the proceedings some other order should be made as to the whole or any part of the costs.

## 18. SITE VISIT AND INSPECTION

18.1 The Commission may make one or more site visits or inspections to better understand the evidence given at the hearing,

and may in each case issue directions for the procedures to be followed during the site visit or inspection.

## 19. DECISIONS, JUDGMENTS AND ORDERS OF THE COMMISSION

19.1 In this Rule "order" includes a decision or judgment.

General relief.

19.2 The Commission may, at any stage of any proceedings, on the application of any party, make such order as the nature of the case requires.

19.3 The Commission may do so even if the applicant did not make a claim for relief extending to that order.

Minute of decision.

19.4 (1) A minute of the final order disposing of the proceedings shall be signed, sealed and filed by the Registrar.

(2) The Registrar shall prepare, sign and seal a minute of any other order when directed by the Commission to do so.

Time of effect.

19.5 A final order disposing of any proceedings takes effect when it is given or made, unless otherwise ordered by the Commission.

Time for compliance with orders not relating to money.

19.6 An order, which requires a person to do an act other than the payment of money, shall specify the time within which the person is required to do the act.

19.7 The time shall be 7 days after the date of service of a copy of the order on the person required to do the act, unless the Commission otherwise orders.

19.8 The Commission may, by a later order, require the person to do the act within another specified time.

Setting aside, or varying an order.

19.9 The Commission may, on terms, set aside or vary an order in any of the following cases:

*(a)* if the order has been made in the absence of a party, whether or not the absent party is in default

of appearance or otherwise in default, and whether or not the absent party had notice of the application for the order;

*(b)* if the application for setting aside or variation is filed before the signing, sealing and filing of the minute under subrule 19.4;

*(c)* if the order was obtained by fraud;

*(d)* if the order is interlocutory;

*(e)* if the order through mistake or error does not reflect the intention of the Commission; or

*(f)* if the party in whose favour the order was made consents.

## 20. APPEALS FROM DECISIONS OF THE COMMISSION

20.1 A party wishing to appeal a decision of the Commission shall comply with the provisions of section 87 of the Act.

## 21. TRANSITIONAL PROVISIONS

21.1 Any proceedings pending before the Environmental Commission prior to the commencement of these Rules shall be deemed to have been commenced and shall be continued in accordance with these Rules.

## SCHEDULE I

**FORM 1**

## NOTICE OF APPLICATION

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE ENVIRONMENTAL COMMISSION

No. of 20

Between

*Applicant*

and

*Respondent*

To:

LET the Respondent ..... attend before the Environmental Commission at (address) on the ..... day of ....., 20....., at .....o'clock, on the hearing of an application by the Applicant that (description of the application), (specify remedy/remedies being sought in a full Statement of Case).

Note: If a Respondent does not attend personally or by his Attorney-at-law at the time and place above-mentioned, such order will be made as the Commission may think just and expedient.

Dated the ..... day of ....., 20.....

*Attorneys-at-law*

(Address)

*Attorneys-at-law for the Applicant*

Tel. No.:

Fax No.:

E-mail:

(Or where the Applicant sues in person)

This Application was taken out by the said applicant who resides at ..... and is (state occupation) and (if the applicant resides out of the jurisdiction) whose address for service is .....

Note: This Application may not be served later than twelve (12) calendar months beginning with the above date unless renewed by order of the Commission.

This Application was taken out (name of firm of Attorneys) for the applicant, whose address for service is .....

## DIRECTIONS FOR DEFENDING

The Respondent may file a Statement of Defence in person or by an Attorney-at-law either (1) by handing in the appropriate form duly completed at the Environmental Commission, Port-of-Spain; or (2) sending it to that office by post within 28 days of the date of service upon him of the application herein.

This Application was served by me at .....

on the ..... Respondent .....

on the ..... day of ....., 20.....

Endorsed the ..... day of ....., 20.....

How identified .....

.....

(Signed)

(Address)

Note:

(i) This Notice of Application must include a title of the application.

(ii) A full description of the nature of the application, for example, Statement of Case.

(iii) State the names and addresses of all the persons intended to be served with a notice of the application/Statement of Case.

(iv) State whether the application was filed out of time and if so, must be endorsed with a reason for late filing.

(v) The notice must be accompanied by the decision, order of designation, consent agreement, or Administrative Order of the Environmental Management Authority.

**FORM 2**

## NOTICE OF APPEAL

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE ENVIRONMENTAL COMMISSION

No. of 20

Between

*Applicant*

and

*Respondent*

1. TAKE NOTICE that the Appellant, being dissatisfied with the decision more particularly stated in paragraph 2 hereof of the order of the Environmental Management Authority made on the ..... day of .....20....., do hereby appeal the Environmental Commission upon the grounds set out in paragraph 3 and will at the hearing of the Appeal seek the relief set out in paragraph 4.

And the Applicant/Appellant further states that the names and addresses including his own, of the persons directly affected by the Appeal are those set out in paragraph 5.

2. (i) Particulars of decision or order appealed against.
(ii) Provision of the Act under which Notice of Appeal is submitted.
(iii) The name and title of the person whose decision is the subject of the notice of appeal.
(iv) Full details of the objections, arguments and submissions in respect of the decision or order appealed against.
(v) A description of the relief sought.

3. Grounds of appeal, including the reasons why the Appellant objects to the decision or order.

4. Set out relief sought.

5. The Notice of Appeal must be filed within 21 days of the date of service of the order or decision appealed against and accompanied by—
(i) a copy of the decision or order of the Authority;
(ii) a list of the names and addresses of all owners of property within 120 metres of the boundary of the property which is the subject of the decision or order;
(iii) a list of the names and addresses of any other persons who should be notified of the proceedings because they may have an interest in the outcome.

| **NAMES** | **ADDRESSES** |
|---|---|
| Appellant | |
| Respondent | |
| Other parties | |

Dated this ..... day of ..... 20.....

*Attorneys-at-law for the Applicant/Appellant*

Tel. No.:

Fax No.:

E-mail:

To: THE REGISTRAR OF THE ENVIRONMENTAL COMMISSION

And To:

Attorneys-at-law for the Respondent

DIRECTIONS FOR DEFENDING

The Respondent and other parties may file a full reply to paragraph 2(iv) above, to be filed and served within 28 days of service of the Notice of Appeal.

**FORM 3**

## NOTICE OF APPLICATION FOR ADMINISTRATIVE CIVIL ASSESSMENT

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE ENVIRONMENTAL COMMISSION

No. of 20

Between

*Applicant*

and

*Respondent*

To:

LET the Respondent of ..... attend before the Environmental Commission at (address) on the ..... day of ....., 20....., at .....o'clock, on the hearing of an Application for Administrative Civil Assessment by the Applicant that (description of the application), (specify the relief sought in a full Statement of Case).

Note: If a Respondent does not attend personally or by his Attorney-at-law at the time and place above-mentioned, such order will be made as the Commission may think just and expedient.

Dated the ..... day of ....., 20.....

*Attorneys-at-law*

(Address)

*Attorneys-at-law for the Applicant*

Tel. No.:

Fax No.:

E-mail:

(Or where the Applicant sues in person)

This Application was taken out by the said Applicant who resides at ..... and is (state occupation) and (if the applicant resides out of the jurisdiction) whose address for service is .....

Note: This Application may not be served later than twelve (12) calendar months beginning with the above date unless renewed by order of the Commission.

This Application was taken out (name of firm of Attorneys) for the applicant, whose address for service is .....

**DIRECTIONS FOR DEFENDING**

The Respondent may file a Statement of Defence in person or by an Attorney-at-law either (1) by handing in the appropriate form duly completed at the Environmental Commission, Port-of-Spain; or (2) sending it to that office by post within 28 days of the date of service upon him of the application herein.

This Application was served by me at .....

on the ..... Respondent .....

on the ..... day of ....., 20.....

Endorsed the ..... day of ....., 20.....

.....

(Signed)

(Address)

Note:

(i) This Notice of Application for Administrative Civil Assessment must include a full description of the nature of the application.

(ii) State the names and addresses of all the persons intended to be served with a notice of the application.

(iii) The notice must be accompanied by the Administrative Order if any.

**FORM 4**

## NOTICE OF DIRECT PRIVATE PARTY ACTION

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE ENVIRONMENTAL COMMISSION

No. of 20

Between

*Applicant*

and

*Respondent*

To:

LET the Respondent of ..... attend before the Environmental Commission at (address) on the ..... day of ....., 20....., at ..... o'clock, on the hearing of a complaint under section 69 of the Environmental Management Act, which provides for a direct private party action by the complainant.

That (particulars of violation alleged), (specify remedy/remedies sought, in a full Statement of Case).

Note: If a Respondent does not attend personally or by his Attorney-at-law at the time and place above-mentioned, such order will be made as the Commission may think just and expedient.

Dated the ..... day of ....., 20.....

*Attorneys-at-law*

(Address)

*Attorneys-at-law for the Applicant*

Tel. No:

Fax No.:

E-mail:

(Or where the Applicant sues in person)

This Complaint was taken out by the said Complainant who resides at ..... and is (state occupation) and (if the complainant resides out of the jurisdiction) whose address for service is .....

Note: This Complaint may not be served later than twelve (12) calendar months beginning with the above date unless renewed by order of the Commission.

This Complaint was taken out (name of firm of Attorneys) for the Complainant, whose address for service is .....

**DIRECTIONS FOR DEFENDING**

The Respondent may file a Statement of Defence in person or by an Attorney-at-law either (1) by handing in the appropriate form duly completed at the Environmental Commission, Port-of-Spain; or (2) sending it to that office by post within 28 days of the date of service upon him of the complaint herein.

This Complaint was served by me at .....,

on the ..... Respondent .....

on the ..... day of ..... 20.....

Endorsed the ..... day of ....., 20.....

How identified .....

.....

(Signed)

(Address)

Note:

(i) This Notice of Direct Private Party Action must include a title of the complaint.

(ii) A full description of the nature of the alleged violation.

(iii) State the names and addresses of all the persons intended to be served with a notice of the complaint.

(iv) Proof of written notice of the alleged violation to the Managing Director of the Environmental Management Authority in compliance with section 69(1)*(a)* of the Environmental Management Act.

(v) Proof of compliance with section 69(1)*(b)* of the Environmental Management Act.

(vi) Service of the complaint must be effected on the Environmental Management Authority and the Attorney General.

**FORM 5**

## NOTICE OF INTERLOCUTORY APPLICATION

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE ENVIRONMENTAL COMMISSION

No. of 20

Between

*Applicant*

and

*Respondent*

LET ALL PARTIES concerned or their Attorneys-at-law attend before the Environmental Commission, Port-of -Spain on the ..... day of ....., 20....., at the hour of 9.30 o'clock in the forenoon or so soon thereafter as Attorney-at-law on behalf of the (applicant) can be heard on the hearing of an application for the following orders namely:

(i) (List orders sought)
(ii) (List relief sought).

Dated the ..... day of ....., 20.....

This Application was taken out by Messrs. Attorneys-at-law for (applicant), of (address of firm).

*Attorneys-at-law* for the Applicant

Tel. No.:

Fax No.:

E-mail:

Note: If you do not attend either in person or by your Attorney at the time and place above-mentioned, such order shall be made and proceedings taken as to the Commission may seem just and expedient.

To: The Registrar of the Environmental Commission

And To:

Note:

(i) There must be annexed to the application all affidavits and other documents in support of the application.
(ii) A draft of the order sought.

**FORM 6**

## WITNESS SUMMONS

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE ENVIRONMENTAL COMMISSION

No. of 20

Between

*Applicant/Complainant/Appellant*

and

*Respondent*

To: (Witness' name)

of (Witness' address)

You are hereby summoned to attend at the Environmental Commission of Trinidad and Tobago at 1st Floor, E.F. "Telly" Paul Building, Corner St. Vincent and New Streets, Port-of-Spain at ..... a.m./p.m. on the ..... day of ....., 20..... the day fixed for the hearing of this Application/Complainant/Appeal and from day to day till the end of the proceedings to give evidence (and to bring with you and produce the following documents)—

(SEAL)

Dated

This Summons was issued on the application of the (Applicant/Appellant/Complainant)(Respondent) whose Attorney is

of

Tel. No.:

Fax No.:

E-mail:

The Commission/Court office is at the Environmental Commission 1st Floor, E.F. "Telly" Paul Building, Corner St. Vincent and New Streets, Port-of-Spain, Telephone numbers 625-7353, 627-9186, 627-3432; Fax 627-0871. The office is open between 8.00 a.m. and 4.00 p.m. Mondays to Fridays except Public Holidays and Court Holidays.

*Registrar*

Dated the ..... day of ....., 20.....

**FORM 7**

## WITNESS SUMMONS

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE ENVIRONMENTAL COMMISSION

No. of 20

Between

*Applicant/Complainant/Appellant*

and

*Respondent*

| | |
|---|---|
| 1. Have you received the (Notice of Application/Notice of Appeal/Notice of Application for Administrative Civil Assessment/Notice of Direct Private Party Action/Notice of Interlocutory Application/Notice of Allegation) with the above number? | YES/NO |
| 2. If so, when? | ...../...../..... |
| 3. Did you also receive Applicant's/Complainant's/Appellant's Statement of Case? | YES/NO |
| 4. If so, when? | ...../...../..... |
| 5. Are your names properly stated on the Form? | YES/NO |
| 6. Do you intend to defend the action or be heard on the matter? | YES/NO |
| 7. What is your address for service? | .....<br>..... |

You should also give your Telephone number, Fax number and e-mail address if any,

Signed .....

(Respondent in person) (Respondent's Attorney)

NOTE: You may indicate by filing within 21 days of service of this Form upon you whether you wish to be heard on the matters contained in the notice of proceedings or notice of allegation accompanying this Form.

## SCHEDULE II

## GUIDELINES FOR TECHNICAL AND EXPERT WITNESSES

1. The Commission expects the technical and/or expert witness to provide it with assistance by way of qualified, relevant opinions and accurate information in relation to matters within his expertise. Objectivity and impartiality are necessary to assist the Commission in its decision.

2. Evidence that is influenced by the special interests of a party may be received and considered, but the Commission may give this evidence little or no weight.

3. The Witness should express an opinion to the Commission only when the opinion is based on adequate knowledge and sound conviction. The witness should be reluctant to accept an assignment to provide evidence for use by the Commission if the terms of reference of the assignment do not allow the witness to carry out the investigations and obtain the information necessary to provide such an opinion. A witness who accepts an assignment under these circumstances, should advise the Commission of the limitations that the terms of reference place on his ability to provide the information necessary to assist the Commission in making a sound decision or to give informed opinions.

4. Technical and expert evidence should be and should be seen to be, the independent product of the witness uninfluenced as to form and content by the exigencies of litigation, the particular dispute before the Commission, and the interests of the witness' client.

5. The witness must never assume the role of advocate for a party. Argument and advocacy should be left to an Attorney-at-law and agents presenting the party's case. This does not preclude the vigorous advancement of strongly held scientific or other professional opinions or prevent a duly qualified witness who is also a party, from advancing technical and opinion evidence.

6. The witness has a duty to change his opinion where circumstances, such as the receipt of new information, require it. If at any time before the Commission issues its final decision, the witness changes his view on a material matter for any reason, particularly after having read the reports or listened to the evidence of witnesses for other parties, the change in information and/or opinion should be communicated to the Commission without delay. Where reports or documents prepared by the witness contain errors or information which has changed, this must be promptly identified.

7. The witness must not change his opinion or change or withhold information to suit the position taken by the party that has retained or employed him.

8. In preparing reports to be used by the witness' employer or client in determining the issues to be raised and the employer or client's position on those issues and for use as evidence, and in testifying before the Commission, the witness has the following duties of disclosure:

*(a)* It is the responsibility of the witness to make fair and full disclosure.

*(b)* The witness should make it clear when a particular question or issue falls outside his or her expertise.

*(c)* To be useful, the opinion and evidence must provide enough clear information on assumptions, procedures used, and conclusions drawn to allow comprehension of the report as it stands, and permit fair and efficient cross-examination.

*(d)* When the witness is providing an opinion or giving evidence on an issue or problem area for which there are differences of professional or scientific opinion, he has an obligation to make such differences clearly known to the Commission and all parties. The witness should make reasonable efforts to be fully informed of those differences.

*(e)* The witness should state all the material facts and assumptions upon which his opinion is based. He or she should not omit to consider and acknowledge material facts which could detract from the opinion. Where the facts are in dispute, the Commission expects that the witness will give his view of the facts and the proof relied upon before giving the opinion.

*(f)* Where the opinion and evidence are based on information contained in other documents, detailed references should be provided in any report prepared by the expert, and copies of those documents made available on request before and during the hearing. Copies of the documents should be brought for reference on cross-examination.

*(g)* Parties and their respective representatives questioning their own witnesses are required by the Rules of Practice and Procedure of the Commission to ask questions designed to elicit the information required by these guidelines. However, the witness is expected to disclose to the Commission and to all other parties all significant information and opinions, and errors, shortcomings and limiting factors even if no one has asked for them.

*(h)* The weight to be given to the evidence of technical and expert witnesses will be affected by the demeanor of the witness. The witness should give direct answers to questions and should not be evasive while giving testimony, even though the answers may appear to be detrimental to the case of the witness' client or employer. Any effort to avoid answering direct questions could adversely affect the weight assigned to the witness' evidence on the issue or the evidence as a whole.

9. When giving an opinion, the witness should state and explain the degree of certainty of the opinion or the level of probability that it is correct. The degree of uncertainty and the reasons for uncertainty should be candidly acknowledged. Uncertainties and assumptions inherent in measurements should be clearly identified. The level of confidence or the sensitivity to error must be given.

10. It is better for a witness to base conclusions on facts and data obtained from those who possess them, rather than construct a series of possibly incorrect assumptions, hypotheses and/or models.

11. Where there is a lack of consensus with respect to the use of a particular model or formula, the rationale for the chosen approach should be identified.

12. If the witness' opinion is not properly researched because insufficient data is available, this shortcoming must be stated. Any limiting qualification to the opinion should be identified. The Commission expects to be told when a lack of factual information or experience will increase the probability of inaccurate conclusions or predictions. The witness should avoid speculation where data is insufficient.

13. Where an estimate falls within a range of reasonable possibilities, based on the same data, the variance within that range should be thoroughly disclosed. Where a prediction can lead to a range of potential impacts, that range should be fully described.

*Plain Language*

14. In preparing reports and giving testimony, the witness should take into account that the hearing process is a public process in which reports and testimony must be understood by participants and observers who may not have any significant technical knowledge. Therefore the language and writing style should be simple and direct and scientific or technical terms and concepts should be explained, where possible, in clear, simple language.

15. Where specialised language is necessary to convey information accurately, the witness should use it rather than risk misleading or over-simplifying. However, where possible, the witness should avoid the use of scientific terms and jargon and unfamiliar acronyms, or at least fully explain those terms, so that technical information and opinion can be easily understood.

*Efficiency*

16. Reports, witness statements and information should be produced in a timely fashion to all parties.

17. All reasonable requests for answers to interrogatories (that is, written questions) must be answered promptly and thoroughly by the witness.

18. Notwithstanding the requirements for full disclosure, the witness should make every effort to give succinct answers to questions put to him in written questions and in examination-in-chief, cross-examination and re-examination, and questioning by the Commission. Answers should be concise, responsive and focused on the most essential issues.

19. During his testimony a witness should not be called upon to review fundamental techniques in a painstaking step-by-step fashion, and to read correspondence and other reports line-by-line and page-by-page, unless it is clear that the purpose of such elaboration warrants this expenditure of time.

# WATER POLLUTION RULES

ARRANGEMENT OF RULES

**RULE**

1. Citation.
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5. Prohibition against release of water pollutants.
6. Source application.
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19. Renewal of permits.
20. Revocation of permits or registration certificate.
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22. Procedure for the revocation, suspension and variation of permit or registration certificate and rejection of claim.
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**FIRST SCHEDULE.**
**SECOND SCHEDULE.**

230/2001.
[12/2007].

# WATER POLLUTION RULES

*made under sections 26, 48, 52, 53 and 54*

Citation.

**1.** These Rules may be cited as the Water Pollution Rules.

Interpretation.
[12/2007].
Ch. 35:05.

**2.** In these Rules—

"Act" means the Environmental Management Act;

"aquifer" means a formation of permeable rock saturated with water and with a degree of permeability that allows water to be withdrawn;

"agricultural" means pertaining to horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, clothing, or for the purpose of farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and use of land for woodlands where that use is ancillary to the farming land for other purposes;

"Authority" means the Environmental Management Authority established under section 6(1) of the Act;

"base flow" means the contribution of groundwater flow to stream flow;

"coastal nearshore" means the area of the marine environment which extends no more than three nautical miles from the high water mark;

"commercial" means of or pertaining to business or trade;

"Commission" means the Environmental Commission established under section 81 of the Act;

"disinfection" means the use of a chemical or technique to destroy or inhibit the growth of micro-organisms that cause diseases;

"emergency" means any situation arising from events beyond the reasonable control of any person that requires corrective action to restore normal operation and causes a facility to breach a permit condition or the permissible levels for release of water pollutants;

"facility" means any location within the environment, and any premises, vehicles, buildings, process, equipment, development, or natural or man-made structure at such location, from which water pollutants may be released;

"groundwater" means the water below the earth's surface, usually in porous rock formations;

"industrial" means of or pertaining to the manufacture, processing, handling, transport, storage or disposal of materials (including raw materials, materials in the process of manufacture, manufactured materials, bye-products and waste materials);

"inland surface waters" means the water from rivers, creeks, tidal waters, estuaries, swamps, streams, lakes and impounded reservoirs that flows over or rests upon the land surface of Trinidad and Tobago and in dry conditions includes the area over which such waters flowed or rested;

"institution" includes health care establishments, hospitals, prisons, schools and zoos;

"Local Authority" means a Council of a Municipal Corporation within the meaning of the Municipal Corporations Act; Ch. 25:04.

"marine offshore" means that area of the marine environment seaward of the coastal nearshore;

"motor vehicle" means any mechanically propelled vehicle intended or adapted for use on roads and includes a trolley vehicle, but does not include vehicles constructed exclusively for use on rails or other specially protected tracks;

"notice" means a notice in accordance with the form determined by the Authority;

"permissible level" means the level specified in the Second Schedule outside of which a person releasing a water pollutant may be required by the Authority to submit an application pursuant to rule 8 for a permit; Second Schedule.

"permit" means a water pollution permit granted under section 53(1) of the Act;

"permittee" means a person to whom a permit has been granted;

"place" means—

*(a)* a geographically contiguous property where an activity is carried out;

*(b)* a non-contiguous property where an activity is carried out that is connected by a right of way to which the public does not have access; or

*(c)* two or more pieces of property, where an activity occurs, that are geographically contiguous and divided by public or private right of way(s);

"prescribed fee" means the fee prescribed by the Minister under section 96(2) of the Act;

"receiving environment" means any environment specified in the Second Schedule;

Second Schedule.

"Register" means the register of water pollutants established under section 52(2) of the Act and maintained under rule 3;

"registrable facility" means—

*(a)* an industrial facility;

*(b)* a commercial facility;

*(c)* an agricultural facility;

*(d)* an institution; and

*(e)* a sewerage facility involved in treating discharge from a facility or institution listed in *(a)* to *(d)* above;

"registered facility" means a facility that is entered in the Water Polluters Register;

"registered person" means a person to whom a registration certificate has been issued;

"Registrar" means the Registrar of Companies appointed under the Companies Act;

Ch. 81:01.

"registration certificate" means a certificate issued under rule 7;

"source application" means an application under rule 6 to register a facility as a source of the release of a water pollutant;

"sewerage facility" means street sewers, collecting sewers, works or appliances of every kind forming part of the construction of the sewer system or necessary accessory, or incidental thereto and includes pumping stations and treatment plants;

"Tobago House of Assembly" means the Tobago House of Assembly referred to in section 141A of the Constitution; Ch. 1:01.

"vehicle" means any form of conveyance or transportation from which water pollutants may be released;

"water" means any surface water, sea, groundwater, wetlands or marine areas within the environment;

"water pollutant" has the meaning assigned to it in rule 3(1);

"Water Polluters Register" means the record established under rule 25;

"WASA" means the Water and Sewerage Authority established under section 3 of the Water and Sewerage Act. Ch. 54:40.

Register of Water Pollutants.

**3.** (1) For the purpose of these Rules, the parameters or substances at the quantity, condition or concentration mentioned in the First Schedule are water pollutants specific to Trinidad and Tobago. First Schedule.

(2) The Authority shall maintain in any form a Register of Water Pollutants.

Requirement for source application.

**4.** (1) Subject to subrule (2) a person who intends to release from a registrable facility a water pollutant that is likely to cause harm to human health or to the environment is required to submit a source application to the Authority forty-five working days prior to such release.

(2) A person who is already in the process of discharging a water pollutant from a registrable facility at the commencement of these Rules shall be required to submit a source application not later than forty-five working days from the commencement of these Rules.

(3) The operation of the registrable facility from which a water pollutant is released shall be allowed until final determination of source application.

(4) For the purpose of any application under these Rules, where in one place a person carries out an activity in more than one structure, that place may, subject to the discretion of the Authority comprise one facility.

(5) Unless otherwise authorised under subrules (1), (2) and (3), no person shall allow the release of a water pollutant from a registrable facility.

(6) Subrules (1) and (2) do not apply to—

*(a)* operational releases from motor vehicles;

*(b)* releases from households except where such households contain industrial or commercial facilities; or

*(c)* releases authorised by a competent governmental entity into sewerage facilities owned or operated by such competent governmental entity.

Prohibition against release of water pollutants.

**5.** (1) A person shall not release a water pollutant into any water approved by a competent governmental entity for human consumption without treatment or where treatment has been limited solely to disinfection.

(2) A person shall not release a water pollutant into groundwater where—

*(a)* the groundwater is vulnerable to contamination because of the hydrological characteristics of the area under which the groundwater occurs;

*(b)* no alternative source of drinking water is available to substantial current or future populations;

*(c)* the aquifer provides the base flow for a sensitive ecological system;

*(d)* the release of a water pollutant may destroy a unique habitat; or

*(e)* the groundwater is a current or potential source of drinking water or has some other beneficial use.

Source application.

**6.** (1) A source application shall—

*(a)* be completed in triplicate and shall be submitted to the Authority together with the prescribed fee;

*(b)* be in accordance with the form as determined by the Authority;

*(c)* be in respect of one facility; and

*(d)* include the following information:

(i) the company or corporate name, or name of the institution or individual, the names of directors if any, the name and position of the applicant, the name of owner or occupier and the mailing address of the facility;

(ii) the location of the facility, including town or village, district, street name and lot number;

(iii) a brief description of the process or activity generating the release including principal products and raw materials used;

(iv) age, energy use and water use of the facility;

(v) existing or proposed volumetric release rates;

(vi) effluent quality monitoring data which shall indicate characteristics of release, including flow rate, quantity, conditions and concentrations of constituents;

(vii) an indication of whether or not the facility is proposed or is in existence;

(viii) an indication of whether or not other approvals from any other governmental entity are required under written law and whether such approvals have been obtained;

(ix) topographic map of the area with a scale of one in twenty-five thousand, extending to at least one kilometre beyond the property boundary;

(x) a description of any water pollution control programme;

(xi) a description of the receiving environment into which the release is directed;

(xii) any other relevant information deemed necessary by the Authority.

(2) Where the facility is a company, the applicant shall supply the Authority with a Registrar's certificate furnished by the Registrar of Companies under section 486(1)*(b)* of the Companies Act stating that the name of the company is on the Register of Companies.

Ch. 81:01.

(3) The source application shall be signed by the principal executive officer where the application is with respect to a company and in other instances by the person owning or operating the registrable facility in respect of which the registration is being sought.

Registration certificate.

**7.** (1) Subject to subrule (2), where the Authority receives a source application and determines that the applicant releases a water pollutant, the Authority shall within ten working days issue to the applicant a registration certificate.

(2) Where the applicant submits further information pursuant to rule 11 or 12 and the Authority determines that the applicant releases a water pollutant, the Authority shall within ten working days of receipt of that information issue to the applicant a registration certificate.

(3) A registration certificate is valid for a period of three years from the date of issue.

(4) Where a registered person wishes to continue to release a water pollutant beyond the expiration of the registration certificate, that person shall submit an application for renewal of a registration certificate to the Authority, in accordance with the form as determined by the Authority, together with the prescribed fee. Provided however that a person issued with a permit under these Rules shall not be required to renew a registration certificate when it expires.

(5) An application for the renewal of a registration certificate under subrule (4) shall be made at least thirty working days before the expiration of the registration certificate.

(6) Where a registered person has submitted an application for the renewal of a registration certificate in accordance with subrules (4) and (5), the expired registration certificate shall continue to be in force until the effective date of the renewed registration certificate.

Requirements to apply for a permit.

**8.** (1) Where any person releases a water pollutant into a receiving environment outside the permissible level, that is likely to cause harm to human health or to the environment, the Authority may at any time notify that person to apply for a permit.

(2) A person granted a permit shall be required to pay the prescribed fee.

General prohibition against non-compliance with a notice to apply for a permit.

**9.** (1) Subject to subrule (2), a person who receives a notice under rule 8(1) shall comply with the requirements of that notice.

(2) The operation of the facility from which the water pollutant is released shall be allowed to continue until a request to submit an application for a permit is made pursuant to rule 8(1) and final determination of the application for the permit.

(3) Where a person receives a notice under rule 8(1), that person shall not, after the final determination of the

application for a permit release any water pollutants outside the permissible levels unless that person has a valid permit granted by the Authority.

Application for a permit.

**10.** (1) An application for a permit shall—

*(a)* be submitted within thirty working days after the person receives a notice under rule 8(1);

*(b)* be completed in triplicate and shall be submitted to the Authority together with the prescribed fee and in accordance with the form prescribed by the Authority;

*(c)* be in respect of one facility;

*(d)* include the following information:

(i) company name or corporate name, name of institution or individual, names of directors if any name and position of applicant, name of owner or occupier and mailing address of the facility;

(ii) a map showing the location of any existing or proposed intake and release points;

(iii) an identification of the receiving water or waters by name;

(iv) copies of any Environmental Impact Statement or Assessment Reports or environmental study which pertains to the facility;

(v) description of any water pollution control programme; and

(vi) any other information deemed necessary by the Authority;

*(e)* be signed by the principal executive officer where the application is with respect to a company and in other instances by the person owning or operating the facility in respect of which the permit is being sought.

(2) Where the applicant is a company, the applicant shall supply the Authority with a Registrar's certificate furnished by the Registrar of Companies under section 486(1)*(b)* of the Companies Act stating that the name of the company is on the Register of Companies. Ch. 81:01.

(3) The Authority may, at the request of the applicant, grant a reasonable extension of the time prescribed in subrule (1)*(a)*.

Further information.

**11.** (1) The Authority may, during the determination of an application under these Rules, request oral or additional written information from—

*(a)* an applicant;

*(b)* a person who is directly affected by the application;

*(c)* a Local Authority, any agency of the Tobago House of Assembly or any other government entity; or

*(d)* any source the Authority considers appropriate.

(2) Where the Authority receives information under subrule 1*(b)*, 1*(c)* or 1*(d)* the Authority shall—

*(a)* forward to the applicant a summary of such information; and

*(b)* request the applicant to submit a response within a specified time.

(3) Where during the determination of an application under these Rules the applicant becomes aware—

*(a)* that in an application or in a report to the Authority the applicant has failed to submit any relevant facts or has submitted incorrect information; or

*(b)* that there is any change affecting the accuracy of any information provided to the Authority,

the applicant shall within ten working days, notify and submit to the Authority the relevant facts and correct information.

Incomplete application.

**12.** (1) Where the Authority considers that the applicant has omitted to provide any of the information required under these Rules, the Authority shall notify the applicant in writing of the omission within ten working days of receipt of the application and shall request within a specified time the omitted information.

(2) The Authority may, at the request of the applicant allow an extension of the time limit specified by the Authority pursuant to subrule (1) or rule 11(2).

(3) Without prejudice to the generality of rule 13(1), where the applicant does not supply the information as requested under subrule (1) or rule 11(1)*(a)* or 11(2)*(b)* within the time limit specified by the Authority under subrule (1) or (2), or rule 11(1)*(a)* or 11(2)*(b)* the Authority may refuse to grant a permit or issue a registration certificate.

Determination of application.

**13.** (1) Subject to subrule (2) the Authority shall within thirty working days of receipt of a completed application under rule 10 grant or refuse to grant with or without conditions, a permit to the applicant.

(2) Where the applicant under rule 10 submits further information under rule 11(2), 11(3) or 12 the Authority shall grant or refuse to grant a permit within thirty working days of receipt of the information.

Duration of permits.

**14.** Unless previously revoked, varied or suspended by the Authority, a permit shall be effective until a fixed date specified in the permit, which date shall not be more than five years from the date on which the permit was granted.

Permit conditions.

**15.** (1) The Authority shall establish in each permit—

*(a)* the water pollutants authorised to be released;

*(b)* the quantity, conditions and concentrations the permittee may release;

*(c)* the exact location where the sampling of the release shall be performed; and

*(d)* reporting requirements.

(2) The Authority may establish in each permit, conditions, as required in the case of each facility, including the following requirements:

*(a)* that the permittee shall take all reasonable steps to—

(i) avoid all adverse environmental impacts which could result from the activity;

(ii) minimise the adverse environmental impact where the avoidance is impractical;

(iii) mitigate the impact where the impact cannot be avoided;

*(b)* that monitoring of the conditions of the permit be conducted in accordance with the methods specified in the permit;

*(c)* that measurements taken for the purpose of monitoring shall be representative of the release;

*(d)* that the permittee shall retain records of all monitoring, including—

(i) all calibration and maintenance records;

(ii) all original strip chart or electronic recordings for continuous monitoring instrumentation;

(iii) copies of all reports required by the permit; and

(iv) records of all data used to complete the application for a permit,

for a period of at least four years from the date of the expiration of a permit which period may be extended by the Authority;

*(e)* that records of monitoring information include—

(i) the date, exact place and time samples or measurements were taken;

(ii) the name(s) of individual(s) who took the samples or measurements;

(iii) the date(s) analyses were performed;

(iv) the individual(s) who performed the analyses;

(v) the analytical methods used;

(vi) the results of such analyses;

(vii) the methods supporting the information such as observations, readings, calculations and bench data used and the results of such methodologies;

(viii) the state of the operation of the facility including, but not limited to, planned and unplanned shutdowns, production levels and achievement of design capacity; and

(ix) handling of samples;

*(f)* that the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed and used by the permittee to achieve compliance with the permit;

*(g)* that the permittee shall at all times carry out and maintain—

(i) best management practices;

(ii) pollution and prevention measures;

(iii) adequate laboratory controls;

(iv) the appropriate quality assurance procedures; and

(v) back-up or auxiliary facilities to achieve compliance with the permit;

*(h)* that the permittee shall furnish the Authority with any information which the Authority may request to determine whether cause exists for varying, suspending, revoking or renewing the permit or to determine compliance with the permit;

*(i)* that the permittee shall furnish to the Authority, upon request, copies of records required to be kept by the permittee;

*(j)* that the permittee report all instances of anticipated non-compliance to the Authority and shall give reasonable advance notice to the Authority of any planned changes in the permitted facility or activity which may result in non-compliance with the permit requirements;

*(k)* that, where there has been non-compliance with the permit requirements, the permittee shall—

(i) report to the Authority, within forty-eight hours of the time the permittee becomes aware of the circumstances of the non-compliance, the anticipated manner in which it may endanger health or the environment;

(ii) within five working days submit to the Authority a written report containing a description of the non-compliance, its cause and the period of non-compliance including exact dates and time, the response, clean-up and counter measures taken;

(iii) if the non-compliance has not been corrected, submit a report to the Authority indicating the anticipated time it is expected to continue; and

(iv) state whether the permittee considers that the non-compliance was due to an emergency and the reasons for such a belief;

*(l)* that the permittee shall allow an authorised representative of the Authority, upon the presentation of identification, to—

(i) enter upon the facility where the water pollutant is released or where records must be kept under the conditions of the permit;

(ii) have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(iii) inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(iv) sample or monitor at reasonable times, for the purposes of ensuring permit compliance.

(3) In deciding the terms and conditions of a permit, the Authority shall have regard to information submitted under rule 6, 10, 11, 12 or 16.

(4) In determining the conditions of a permit, the factors to be considered by the Authority shall include but not be limited to—

*(a)* the industrial profile of the activities conducted at the facility;

*(b)* the volumetric release rates of effluents;

*(c)* the quality of the effluent including conditions and concentrations of constitutents;

*(d)* characteristics of receiving waters (example, whether marine or inland, flow rates, depth, water quality);

*(e)* uses of receiving water;

*(f)* age of the facility;

*(g)* pollution control equipment installed;

*(h)* location of point source;

*(i)* best available practicable technology; and

*(j)* other relevant information.

Changes after grant of registration certificate or permit.

**16.** (1) A registered person or permittee shall, within twenty-one working days of the following events, give the Authority notice in writing of:

*(a)* a change affecting the accuracy of any particulars provided in an application for a registration certificate or permit; or

*(b)* the cessation of the operation of the facility in respect of which the registration certificate or permit has been issued.

(2) A registered person or a permittee shall, upon payment of the prescribed fee, give notice to the Authority at least one hundred and eighty working days prior to any facility expansion or modification, production increase or modification, or process increase or modification which will result in a new or increased release of one or more water pollutants.

(3) The notice in subrule (2) shall—

*(a)* indicate the proposed characteristics of release including the method of release, quantity, conditions and concentrations;

*(b)* identify the receiving water or waters by name; and

*(c)* contain a map showing the proposed location of any proposed intake and release structures.

(4) Where a registered person or permittee—

*(a)* dies;

(*b)* becomes bankrupt;

*(c)* transfers ownership;

*(d)* goes into liquidation or receivership; or

*(e)* becomes a party to an amalgamation,

that person or the person responsible for his affairs, shall within twenty-one working days of the event, give the Authority notice in writing thereof.

Variation.

**17.** (1) The Authority may—

*(a)* on its own initiative vary the conditions of a permit or a variation granted pursuant to subrule (8); or

*(b)* on the application of the permittee vary the conditions of a permit or the permissible levels for the facility.

(2) The Authority may vary a permit under subrule (1)*(a)*—

*(a)* where it appears to the Authority that a situation specified in rule 16 has occurred;

*(b)* where it appears to the Authority that an emergency has occurred;

*(c)* in order to ensure the attainment or maintenance of water quality;

*(d)* in order to protect and ensure the propagation of a balanced community of plant and animal life specific to an area or region;

*(e)* in order to allow recreational activities in water; or

*(f)* where it appears to the Authority that any other change, situation or activity relating to the use of the permit has occurred that is not consistent with these Rules.

(3) Where the Authority varies a permit under subrule (1)*(a)* it shall issue to the permittee an amended permit or remove the requirement for a permit where the permittee by virtue of a variation is within all the prescribed limits.

(4) An application under subrule (1)*(b)* shall be submitted to the Authority, together with the prescribed fee.

(5) Subject to subrules (6) and (7), where the Authority receives an application under subrule (1)*(b)* for a variation other than a variation of the permissible levels for a facility, the Authority shall, within thirty working days of receipt of the completed application, issue to the applicant an amended permit or refuse to grant a variation.

(6) Subject to subrule (7) where the Authority receives an application under subrule (1)*(b)* for a variation of the permissible levels for a facility, the Authority may in the case of an application for a variation of the permissible levels for the facility issue an amended permit or make a decision to remove the requirement for a permit or refuse to grant the variation within a reasonable time of receipt of the application by the Authority so as to allow the Authority to carefully assess the implications of varying the permissible levels for the facility.

(7) Where the permittee under subrule (1)*(b)* submits further information under rule 11(1), 11(2), 12 or 16 the Authority may issue to the applicant an amended permit within thirty working days of receipt of such information and in the case of an application for a variation of the permissible levels for the facility issue an amended permit or make a decision to remove the requirement for a permit or refuse to grant the variation within a reasonable time.

(8) The Authority may approve the application under subrule (1)*(b)*, if the application is based on supported scientific rationale in the following areas:

*(a)* variation of prescribed methods of sampling preservation and analysis;

*(b)* variation of permissible levels of water pollutants from facilities into the environment;

*(c)* variation of the water pollutants to be monitored; and

*(d)* variation of the frequency of monitoring.

(9) The Authority shall not approve an application under subrule (1)*(b)* where a variation will impair—

*(a)* the attainment or maintenance of water quality;

*(b)* the protection and propagation of a balanced community of plant or animal life specific to an area or region;

*(c)* a source of drinking water;

*(d)* recreational activities in the water.

Transfer of permit.

**18.** (1) No permit is assignable or transferable to any person without the consent of the Authority and the payment of the prescribed fee.

(2) The Authority may, on the application of a permittee, transfer a permit to another person.

(3) The Authority shall not approve an application under subrule (2) unless the application is in respect of the release to which the permit applies.

(4) An application for a transfer shall be in triplicate in accordance with the form as determined by the Authority, and shall be submitted to the Authority together with the prescribed fee.

(5) An application for a transfer shall contain—

*(a)* the name and address of the proposed transferee; and

*(b)* the signatures of the proposed transferee and the applicant.

(6) An application for a transfer shall be accompanied by the permit which is to be transferred.

(7) Where the proposed transferee is a company, an application for a transfer shall be accompanied by a Registrar's certificate furnished by the Registrar of Companies under section 486(1)*(b)* of the Companies Act stating that the name of the company is on the Register of Companies.

Ch. 81:01.

(8) Where the Authority approves an application under subrule (2), the Authority shall—

*(a)* endorse the transfer on the permit submitted under subrule (6);

*(b)* substitute the name of the applicant on the permit for that of the transferee; and

*(c)* endorse date on which the application was approved.

Renewal of permits.

**19.** (1) Where a permittee desires to continue to release a water pollutant beyond the expiration of a permit, the permittee shall submit an application for the renewal of a permit to the Authority, in accordance with the form as determined by the Authority, together with the prescribed fee.

(2) An application for a new permit shall be made at least thirty working days before the expiration of the permit.

(3) Where, after the expiration of a permit, a permittee has submitted an application for the new permit in accordance with subrules (1) and (2), the expired permit shall continue in force until the effective date of the renewed permit.

(4) A person whose permit has been renewed shall be required to pay the prescribed fees.

Revocation of permits or registration certificate.

**20.** The Authority may revoke a permit or registration certificate if it appears to the Authority that—

*(a)* the continuation of the release authorised by the permit or registration certificate would cause serious pollution of the environment or serious harm to human health that cannot be avoided by varying the conditions of the permit or registration certificate;

*(b)* the registered person or permittee has made a misrepresentation or wilful omission in obtaining the permit or registration certificate or in any report submitted to the Authority;

*(c)* the permittee has violated any fundamental condition of the permit;

*(d)* there has been any other change in circumstances relating to the permit or registration certificate that requires a permanent reduction in the release.

Suspension of permits or registration certificate.

**21.** (1) The Authority may suspend a permit or registration certificate if it appears to the Authority that—

*(a)* the continuation of the release authorised by the permit or registration certificate would cause serious pollution of the environment or serious harm to human health;

*(b)* the permittee has violated any condition in the permit;

*(c)* there has been any other change in circumstances relating to the permit or registration certificate that requires a temporary reduction in the release.

(2) A permit or registration certificate suspended under this rule shall be of no effect to authorise the release allowed in the permit or registration certificate.

(3) Where a permit or registration certificate is suspended under this rule, the Authority in suspending it or at any time while it is suspended, may require the permittee or the person in receipt of the registration certificate to take such measures to deal with or avert the pollution or harm.

Procedure for the revocation, suspension and variation of permit or registration certificate and rejection of claim.

**22.** The Authority shall not revoke, suspend or vary a permit or registration certificate or reject a claim under rule 26 unless it has—

*(a)* given written notice to the permittee or applicant or person in receipt of a registration certificate that it intends to do so;

*(b)* specified in the notice the reasons for its intention to do so;

*(c)* given the permittee or applicant or person in receipt of a registration certificate a reasonable opportunity to make submissions in relation to the revocation, suspension, variation or rejection; and

*(d)* taken into consideration any submissions made by the permittee or applicant or person in receipt of a registration certificate within five working days of service of the notice prescribed in paragraph *(a)*.

Notification of decisions of the Authority.

**23.** The Authority shall by notice inform the applicant or the permittee, as the case may be, of the following decisions in relation to a permit or registration certificate:

*(a)* refusal of a grant of a permit or issue of a registration certificate under rule 12(3) or 13;

*(b)* conditions attached to a grant under rule 13;

*(c)* a variation under rule 17(1)*(a)*;

*(d)* refusal of an application for a variation under rule 17(1)*(b)*;

*(e)* refusal of an application for a transfer under rule 18;

*(f)* refusal of an application for a renewal under rule 19;

*(g)* a revocation under rule 20;

*(h)* a suspension under rule 21; or

*(i)* a rejection of a claim under rule 26.

Appeals to the Commission.

**24.** A decision of the Authority mentioned in rule 23 is subject to appeal to the Commission.

Water Polluters Register.

**25.** (1) The Authority shall establish and maintain a Water Polluters Register—

*(a)* consisting of any registrable facilities that are a source of releases of a water pollutant and which shall be open to the public for inspection at the Authority's principal office during working hours; and

*(b)* which may be kept in any form.

(2) Subject to rule 26, the Water Polluters Register shall contain particulars of, or relating to—

*(a)* every source application and every application for a permit;

*(b)* every registration certificate and permit;

*(c)* every refusal to grant a permit under rules 12(3) and 13 together with the reasons for the refusal;

*(d)* every variance under rule 17(1)*(a)*;

*(e)* every refusal to vary the conditions of a permit under rule 17(1)*(b)* together with reasons for refusal;

*(f)* every refusal of a renewal of a permit under rule 19;

*(g)* every revocation under rule 20;

*(h)* every suspension under rule 21;

*(i)* ministerial directives under section 5 of the Act;

*(j)* inspection reports pursuant to sections 22 and 23 of the Act;

*(k)* notices of all types including notices of violation under section 63 of the Act;

*(l)* administrative orders under sections 64 and 65 of the Act;

*(m)* administrative civil assessments under section 66 of the Act;

*(n)* applications for enforcement under section 67 of the Act;

*(o)* other actions by the Authority under section 68 of the Act; and

*(p)* complaints against permittees under section 69 of the Act.

(3) An extract from the Water Polluters Register shall be supplied at the request of any person on payment of the prescribed fee.

Trade secrets and confidential business information.

**26.** (1) An applicant, upon payment of the prescribed fee, may assert a claim in accordance with the form as determined by the Authority, that any of the information supplied to the Authority under rule 6, 10, 11, 12 or 16 is a trade secret or confidential business information and that it be omitted from the Water Polluters Register.

(2) The Authority may reject the claim for the reason—

*(a)* that the applicant has not disclosed the basis for the claim;

*(b)* that the basis thereof is invalid; or

*(c)* that the public interest in disclosing the information clearly outweighs any prejudice to the applicant.

(3) The Authority shall omit the information from the Water Polluters Register where—

*(a)* the Authority does not contest the claim; or

*(b)* the Authority rejects the claim under subrule (2) but the claim is upheld on an appeal pursuant to rule 24.

Rule 3.

## FIRST SCHEDULE

## REGISTER OF WATER POLLUTANTS

| No. | Parameters or Substances | Quantity, Condition or Concentration at which substance or parameter is defined as a pollutant* |
|---|---|---|
| 1. | Temperature | Maximum variation of 3°C from ambient |
| 2. | Hydrogen ion (pH) | Less than 6 or greater than 9. |
| 3. | Dissolved Oxygen Content (DO) | <4 |
| 4. | Five-day Biological Oxygen Demand ($BOD_5$ at 20° C) | >10 |
| 5. | Chemical Oxygen Demand (COD) | >60 |
| 6. | Total Suspended Solids (TSS) | >l5 |
| 7. | Total Oil and Grease (TO&G) or n-Hexane Extractable Material (HEM) | >10 |
| 8. | Ammoniacal Nitrogen (as $NH_3$-N) | >0.01 |
| 9. | Total Phosphorus (as P) | >0.1 |
| 10. | Sulphide (as $H_2S$) | >0.2 |
| 11. | Chloride (as $Cl^-$) | >250 |
| 12. | Total Residual Chlorine (as $Cl_2$) | 0. 2 |
| 13. | Dissolved Hexavalent Chromium ($Cr^{6+}$) | >0.01 |
| 14. | Total Chromium (Cr) | >0.1 |
| 15. | Dissolved Iron (Fe) | >1.0 |
| 16. | Total Petroleum Hydrocarbons (TPH) | NIAA |
| 17. | Total Nickel (Ni) | >0.5 |
| 18. | Total Copper (Cu) | >0.01 |
| 19. | Total Zinc (Zn) | >0.1 |
| 20. | Total Arsenic (As) | >0.01 |
| 21. | Total Cadmium (Cd) | >0.01 |
| 22. | Total Mercury (Hg) | >0.005 |
| 23. | Total Lead (Pb) | >0.05 |
| 24. | Total Cyanide (as $CN^-$) | >0.01 |
| 25. | Phenolic Compounds (as phenol) | >0.1 |
| 26. | Radioactivity | NIAA |
| 27. | Toxicity | NATE |
| 28. | Faecal Coliforms | >100 |
| 29. | Solid Waste | No solid debris |

*All units are in milligrammes per litre (mg/L) except for temperature (°C), pH (pH units), turbidity (NTU), faecal coliforms (counts per 100 ml), radioactivity (Bq/L) and toxicity (toxic units).
NIAA—no increase above ambient
NATE—no acute toxic effects
>—greater than <—less than

## SECOND SCHEDULE

Rule 8. [12/2007].

## PERMISSIBLE LEVELS

| | Water Pollutants | Receiving Environment | | | |
|---|---|---|---|---|---|
| No. | Parameters or Substances | Inland Surface Water | Coastal Nearshore | Marine Offshore | Environmentally Sensitive Areas and/or Groundwater* |
| | | Levels or Conditions | | | |
| 1. | Temperature | 35 | 40 | 45 | NIAA |
| 2. | Dissolved Oxygen | >4 | >4 | >4 | >4 |
| 3. | Hydrogenion (pH) | 6-9 | 6-9 | 6-9 | 6-9 |
| 4. | Five-day Biological Oxygen Demand ($BOD_5$ at 20°C) | 30 | 50 | 100 | 10 |
| 5. | Chemical Oxygen Demand (COD) | 250 | 250 | 250 | 60 |
| 6. | Total Suspended Solids (TSS) | 50 | 150 | 200 | 15 |
| 7. | Total Oil and Grease (TO&G) or n-Hexane Extractable\ Material (HEM) | 10 | 15 | 100 | No release |
| 8. | Ammoniacal Nitrogen (as $NH_3$-N) | 10 | 10 | 10 | 0.1 |
| 9. | Total Phosphorus (as P) | 5 | 5 | 5 | 0.1 |
| 10. | Sulphide (as $H_2S$) | 1 | 1 | 1 | 0.2 |
| 11. | Chloride (as $Cl^-$) | 250 | NIAA | NIAA | NIAA |
| 12. | Total Residual Chlorine (as $Cl_2$) | 1 | 1 | 2 | 0.2 |
| 13. | Dissolved Hexavalent Chromium ($Cr^{6+}$) | 0.1 | 0.1 | 0.1 | 0.01 |
| 14. | Total Chromium (Cr) | 0.5 | 0.5 | 0.5 | 0.1 |
| 15. | Dissolved Iron (Fe) | 3.5 | 3.5 | 3.5 | 1.0 |
| 16. | Total Petroleum Hydrocarbons (TPH) | 25 | 40 | 80 | No release |
| 17. | Total Nickel (Ni) | 0.5 | 0.5 | 0.5 | 0.5 |
| 18. | Total Copper (Cu) | 0.5 | 0.5 | 0.5 | 0.01 |
| 19. | Total Zinc (Zn) | 2 | 2 | 2 | 0.1 |
| 20. | Total Arsenic (As) | 0.1 | 0.1 | 0.1 | 0.01 |
| 21. | Total Cadmium (Cd) | 0.1 | 0.1 | 0.1 | 0.01 |
| 22. | Total Mercury (Hg) | 0.01 | 0.01 | 0.01 | 0.005 |
| 23. | Total Lead (Pb) | 0.1 | 0.1 | 0.1 | 0.05 |
| 24. | Total Cyanide (as $CN^-$) | 0.1 | 0.1 | 0.1 | 0.01 |
| 25. | Phenolic Compounds (as phenol) | 0.5 | 0.5 | 0.5 | 0.1 |
| 26. | Radioactivity | NIAA | NIAA | NIAA | NIAA |
| 27. | Toxicity | NATE | NATE | NATE | NATE |
| 28. | Faecal Coliforms | 400 | 400 | 400 | 100 |
| 29. | Solid Waste | NSD | NSD | NSD | NSD |

*All units are in milligrammes per litre (mg/L) except for temperature (°C), pH (pH units), faecal coliforms (counts per 100 ml), radioactivity (Bq/L) and toxicity (toxic units).
NIAA—no increase above ambient
NATE—no acute toxic effects
NSD—No solid debris
>—greater than

142/2001.
[330/2006].

# WATER POLLUTION (FEES) REGULATIONS

*made under section 96(2)*

Citation.

**1.** These Regulations may be cited as the Water Pollution (Fees) Regulations.

Interpretation.

**2.** In these Regulations—

"rule" means a rule of the Water Pollution Rules.

Fees.

**3.** The fees payable to the Authority are set out in the Second Column of the Schedule and are with respect to the corresponding entry in the First Column.

Payment of fees.

**4.** All fees shall be paid immediately upon submission of an application mentioned in the Schedule above save and except annual permit fees which shall be payable on the anniversary date of the grant of a new or renewed permit.

Services for which charges payable.

**5.** Services for which charges are payable under rule 17(4) include consideration of applications and the use of specialised expertise external to the Authority.

Charges exceeding $10,000.00.

**6.** Charges paid to the Authority pursuant to rule 17(4) which exceeds $10,000.00 shall require a statement of expenses from the Authority identifying the cost items that resulted in the charges exceeding $10,000.00.

## SCHEDULE

| FIRST COLUMN | SECOND COLUMN |
|---|---|
| *Rule 7* | |
| Application for Registration Certificate | $1,000.00 |
| *Rule 7(4)* | |
| Application for Renewal of Registration Certificate … … … … | $500.00 |
| *Rule 8(2)* | |
| Annual Permit Fees … … … | $10,000.00 per annum or part thereof |
| *Rule 10(1)(b)* | |
| Application for a Permit … … | $2,500.00 |
| *Rule 16(2)* | |
| Application for Changes after Grant of Registration Certificate or Permit … | $1,000.00 |
| *Rule 17(4)* | |
| Application for Variation of Permit … | $10,000.00 but not exceeding $150,000.00 |
| *Rule 18(1)* | |
| Application for Transfer of Permit … | $500.00 |
| *Rule 19(1)* | |
| Application for Renewal of Permit … | $5,000.00 |
| *Rule 19(4)* | |
| Annual Permit Fees for Renewed Permit … … … … | $15,000.00 |
| *Rule 25(3)* | |
| Application for extract from Register of Water Pollutants … … … | $0.50 per page |
| *Rule 26(1)* | |
| Application that Information Supplied be omitted from the Water Polluters Register … … … … | $250.00 |

# AIR POLLUTION RULES

ARRANGEMENT OF RULES

**RULE**

**PART I**

**PRELIMINARY**

1. Citation.
2. Interpretation.
3. Register of Air Pollutants.

**PART II**

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4. Requirement to be registered.
5. Information to be provided on registration.
6. Registration certificate.
7. Transfer of registration certificate.
8. Notice of modifications to registered emitter facility.
9. Authority to determine whether a registered emitter facility requires a permit.

**PART III**

**PERMITS**

10. Permit requirement.
11. Permit application.
12. Acknowledgement of receipt of application.
13. Notice of consideration of application.
14. Further information.
15. Refusal for failure to provide information.
16. Release of air pollutants during determination of permit application.
17. Grant or refusal of permit.
18. Duration of permits and annual fee.
19. Contents of permit.
20. Conditions of permit.
21. Notice of operation changes after grant of permit.
22. Change of legal status after grant of permit.

**RULE**

23. Variation of permit.
24. Transfer of permit.
25. Renewal of permit.
26. Revocation of cancellation of permit.
27. Suspension of permit.
28. Notice of intention to suspend, revoke or cancel a permit.
29. Notice of decision of Authority.
30. Appeals to the Commission.

**PART IV**

**MISCELLANEOUS**

31. Notice of requirement to conduct air quality assessment.
32. Determination of air quality.
33. Emergency procedures.
34. Register of Emitter Facilities.
35. Removal from the Register of Emitter Facilities.
36. Confidentiality claims.
37. Exemption from requirement to hold permit.
38. Effective date of notice.
39. Service of notices.
40. Breach of environmental requirement.
41. Certificate of Environmental Clearance.
42. Application of Schedule 2.
43. Savings.

**SCHEDULE 1.**
**SCHEDULE 2.**
**SCHEDULE 3.**

12/2015.

# AIR POLLUTION RULES

*made under section 26(a), (b), (c), (d), (j), (k), (l), 27, 49, 50 and 51(1)*

## PART I

## PRELIMINARY

Citation.

**1.** These Rules may be cited as the Air Pollution Rules.

Interpretation.

**2.** In these Rules—

"acute effect" means an adverse effect on any living organism after a single or multiple exposures to an air pollutant which results in severe symptoms, up to and including death, that develop and present rapidly;

"air" means the atmosphere up to one hundred kilometres above sea level;

"air pollutant" means any pollutant released into, or which otherwise has an impact on, the atmosphere or climate and includes—

Schedule1. Schedule 2.

*(a)* any substance listed in Schedule 1 or Schedule 2 which—

(i) is emitted into the air; and

(ii) causes the maximum permissible level of the parameters listed in Schedule 1 or Schedule 2 to be exceeded; or

*(b)* any substance or combination of substances listed in Schedule 1 or Schedule 2 which is emitted into the air; or

*(c)* any emission arising from an activity listed in Schedule 3;

Schedule 3.

"ambient air" means the air surrounding the Earth with the exception of the air that is indoors;

"applicant" means a person who applies for a permit and includes an agent of the person or an Attorney-at-law appointed by the person under a duly registered power of attorney;

"approved form" means a form approved by the Authority;

"bubble approach" means an approach to air pollution emissions control that allows a facility to consider emissions from more than one source as combined emissions for that facility as long as the maximum permissible levels specified in Schedule 1 are not exceeded outside the facility;

"chronic effect" means an adverse effect on any living organism after either single or multiple exposures to an air pollutant which results in symptoms, up to and including death, that develop and present slowly over a long period of time;

"emergency" means any situation, including a *force majeure*, that requires immediate—

*(a)* corrective action to restore normal operations; or

*(b)* mitigation measures such as warnings or evacuations,

and which causes or is likely to cause a facility to breach a condition of a permit or exceed any maximum permissible level specified in Schedule 1 or Schedule 2;

"emissions" means any substance that is released into the air;

"emitter facility" means a facility—

*(a)* from which an air pollutant is emitted; and

*(b)* which is used for any activity listed in Schedule 3;

"facility" means any—

*(a)* building or other man-made structure, whether permanent or temporary in form, together with its land;

*(b)* operation; or

*(c)* equipment,

which forms part of a continuous space from or on which emissions may be released;

"holder of a permit" means a person to whom a permit has been granted;

"Local Authority" means the Tobago House of Assembly as defined by the Tobago House of Assembly Act or a Corporation as defined by the Municipal Corporations Act; Ch. 25:03. Ch. 25:04.

"major component" means any integral constituent of an emitter facility that plays a key role in the operation of the emitter facility during normal as well as emergency conditions and includes, but is not limited to, any building, installation, equipment, storage unit or area, operation, appurtenance, or activity that produces emissions;

"modification" means any change in a facility, that—

*(a)* alters or is likely to alter the characteristics of quality and quantity of any emission released by that facility; or

*(b)* results or is likely to result in the release of any emission not previously released by that facility;

"operator" means a person who owns or operates a facility which is an emitter facility or which is intended to be used as an emitter facility;

"parameter" means a variable and measurable property of a substance without physical dimensions;

"permit" means an air pollution permit granted under section 50(1) of the Act and rule17;

Sub. Leg. "prescribed fee" means a fee prescribed in the Air Pollution (Fees) Regulations;

"Register" means the Register of Air Pollutants established in accordance with section 49(2) of the Act and maintained under rule 3;

"Register of Emitter Facilities" means the register established under rule 34;

"registered emitter facility" means a facility in respect of which a registration certificate has been issued under rule 6(3);

"registrant" means a person who submits a request to register a facility under rule 4;

"Registrar General's Certificate" means a certificate furnished by the Registrar of Companies under section 486(1)*(b)* of the Companies Act;

Ch. 81:01.

"registration certificate" means a certificate issued under rule 6;

"sensitive receptor" means any living organism that is more susceptible than its general population to the adverse effects

of exposure to air pollutants as a result of predisposing factors, which include but are not limited to, age, infirmity, illness, genetics, physiology, ecology, or pre-existing environmental stress;

"stack" means a chimney or smoke stack or a vertical pipe through which an emission is released into the air;

"substance" means a material of a particular kind or constitution, including pure elements, compounds and chemical substances comprising mixtures of elements or compounds;

"UTM" means Universal Transverse Mercator;

"volatile organic compound" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or metallic carbonates and ammonium carbonate, that participates in photochemical reactions, and includes organic compounds other than methane and ethane and other organic compounds which have been determined to have negligible photochemical reactivity.

Register of Air Pollutants.

**3.** (1) In accordance with section 49(2) of the Act, the Authority shall maintain a register of air pollutants to be called the "Register of Air Pollutants".

(2) The Register shall be in the form determined by the Authority and shall be open to examination by members of the public at such place and during such times as the Authority may notify from time to time in the *Gazette* and in one or more daily newspapers circulating in Trinidad and Tobago.

## PART II

## REGISTRATION

Requirement to be registered.

**4.** (1) Every operator who, on the date of the coming into effect of this Part operates an emitter facility, shall within six months of that date—

*(a)* submit to the Authority in the approved form a request to register the emitter facility; and

*(b)* pay the prescribed fee.

(2) On the commencement of these Rules every operator who intends to operate an emitter facility, shall at least ten working days before the commencement of operations—

*(a)* submit to the Authority a request in the approved form to register the facility; and

*(b)* pay the prescribed fee.

Information to be provided on registration.

**5.** (1) Every registrant shall on submitting a request under rule 4 provide the Authority with the following information:

*(a)* where the registrant is an individual, the name and mailing address of the individual;

*(b)* where the registrant is a registered company—

(i) the registered corporate name;

(ii) the names of the directors;

(iii) the registered address of the company;

(iv) the name and position of the person submitting the request on behalf of the registrant;

(v) the mailing address of the facility; and

(vi) a copy of the Registrar General's Certificate;

*(c)* where the registrant is an entity other than a registered company, including a trust, an unincorporated association, a partnership or a governmental entity—

(i) the name of the entity;

(ii) the names of the directors, if any;

(iii) the registered address of the entity;

(iv) the name and position of the person submitting the request on behalf of the registrant; and

(v) the mailing address of the facility;

*(d)* an indication of whether the facility is an existing or proposed emitter facility;

*(e)* the location of the facility, including UTM co-ordinates, a description of the boundary, town or village, district, street name and lot number;

*(f)* a topographic map of the area with a scale of one in twenty-five thousand or any other appropriate scale as required by the Authority, extending to at least one kilometre beyond the boundary of the facility;

*(g)* the nature, location and age of the major components of the facility;

*(h)* the use or proposed use of energy and water by the facility;

*(i)* a brief description of the processes or activities that generate or will generate the air pollutant, including principal products and raw materials;

*(j)* existing or proposed emission rates;

*(k)* emission data which shall indicate the characteristics of any emission, including the method of release, location of emission sources, flow rate, quantity, conditions and concentrations of constituents;

*(l)* a description of the environment into which the emission is released;

*(m)* a description of any air pollution management programme that is, or may be utilised by the registrant;

*(n)* an indication of whether approvals from any other governmental entity are required under written law and of whether such approvals have been applied for or obtained;

*(o)* evidence of any approval or application referred to in paragraph *(n)*;

*(p)* where required by the Authority, the results of an air quality assessment; and

*(q)* any other relevant information considered necessary by the Authority.

(2) Where the Authority determines that an air quality assessment should be undertaken by a registrant, the Authority

shall notify him in writing of the requirement to conduct an air quality assessment and shall—

*(a)* within ten working days of the service of the notice, consult with the registrant on the preparation of the terms of reference;

*(b)* within fifty working days of the service of the notice, prepare the final terms of reference for the conduct of the air quality assessment; and

*(c)* notify the registrant in writing that the terms of reference is available for collection at the office of the Authority before a specified date, upon payment of the prescribed fee.

(3) The terms of reference referred to at subrule (2) may—

*(a)* specify the qualifications of persons conducting the air quality assessment;

*(b)* specify the period within which an air quality assessment shall be submitted to the Authority; and

*(c)* include any other terms as the Authority considers appropriate.

(4) A registrant who receives a notice under subrule (2) shall comply with the requirements of such notice.

(5) After submission of an air quality assessment, a registrant shall on the direction of the Authority, monitor emissions and submit reports and any other information at such times as the Authority may reasonably specify.

Registration certificate.

**6.** (1) The Authority shall, within twenty working days of receipt of a request to be registered under rule 4, issue to the registrant a notice in writing acknowledging receipt of the request for registration.

(2) Upon receipt of the request for registration, the Authority may—

*(a)* notify the registrant of any omission of information required pursuant to rule 5 and specify a time for submission of such information; and

*(b)* request further information and specify a time for submission of such information.

(3) The Authority shall within ten working days of being satisfied that all necessary information has been submitted, issue to the registrant a registration certificate.

(4) Where, after the submission of a request for registration but before the issuance of a registration certificate, a registrant becomes aware that—

*(a)* he has failed to submit any relevant facts or has submitted incorrect information; or

*(b)* there is any change affecting the accuracy of any information provided to the Authority,

he shall immediately notify the Authority in writing and submit to the Authority, the relevant facts and correct information.

(5) Where a registration certificate is issued to a registrant and the registrant becomes aware that—

*(a)* he has failed to submit any relevant facts or has submitted incorrect information; or

*(b)* there is any change affecting the accuracy of any information provided to the Authority,

he shall within twenty working days notify the Authority and submit to the Authority, the relevant facts and correct information and, where those relevant facts and information affect the particulars on the registration certificate, the Authority shall within ten working days re-issue to the registrant a registration certificate.

(6) Where an operator of a registered emitter facility—

*(a)* dies;

*(b)* is declared bankrupt;

*(c)* transfers ownership of the facility;

*(d)* goes into liquidation or receivership; or

*(e)* becomes a party to an amalgamation,

the operator, his agent or legal personal representative shall within twenty working days give the Authority notice in writing thereof and submit supporting documentation.

Transfer of registration certificate.

**7.** (1) A registrant shall not assign or transfer his registration certificate to any person without the written consent of the Authority.

(2) The Authority may, on the application of a registrant, transfer his registration certificate to another person.

(3) An application to transfer a registration certificate shall be made in the approved form and accompanied by the prescribed fee.

(4) An application for the transfer of a registration certificate shall contain—

*(a)* where the proposed transferee is an individual, the name and address of the proposed transferee;

*(b)* where the proposed transferee is a registered company—

(i) the registered corporate name;

(ii) the names of the directors;

(iii) the registered address of the company;

(iv) the name and position of the person submitting the request on behalf of the registrant;

(v) the mailing address of the facility; and

(vi) a copy of the Registrar General's Certificate;

*(c)* where the proposed transferee is an entity other than a registered company, including a trust, an unincorporated association, a partnership or a governmental entity—

(i) the name of the entity;

(ii) the names of the directors, if any;

(iii) the registered address of the entity;

(iv) the name and the position of the person submitting the application on behalf of the proposed transferee; and

(v) the mailing address of the facility;

*(d)* the signatures of the proposed transferee and the registrant; and

*(e)* such other particulars as the Authority may require.

(5) An application to transfer a registration certificate shall be accompanied by the registration certificate which is to be transferred.

(6) Subject to rules 15, 16 and 17, the Authority shall, within thirty working days of receipt of an application under the Rule, approve or refuse the application.

(7) Where the Authority approves an application for a transfer under this Rule, the Authority shall—

*(a)* endorse on the registration certificate the date on which the application was approved and the effective date of the transfer; and

*(b)* substitute the name on the registration certificate with that of the transferee.

Notice of modifications to registered emitter facility.

**8.** Every operator of a registered emitter facility shall inform the Authority by notice in writing of any modifications to the emitter facility, at least ten working days before the commencement of any such modification and the notice shall—

*(a)* specify the characteristics of any air pollutants including the method of release, location, flow rate, quantity, conditions and concentrations of constituents;

*(b)* where applicable, include a map or other illustration showing the intended location of any release structure; and

*(c)* include any change to the information provided under rule 5 as a result of the proposed modification.

Authority to determine whether a registered emitter facility requires a permit.

**9.** (1) Where, after a registration certificate has been issued to a registrant, the Authority determines that the registrant is also required to obtain a permit, the Authority may, by notice, require the registrant to apply for a permit in accordance with rule 11.

(2) A registrant who receives a notice under subrule (1) shall comply with the requirements of that notice.

**PART III**

**PERMITS**

Permit requirement.

**10.** (1) Subject to rule 16, an operator shall not permit the release—

Schedule 1.

*(a)* of any substance identified in Schedule 1, that causes the maximum permissible level specified therein to be exceeded; or

Schedule 2.

*(b)* where a stack exists, any substance or parameter identified in Schedule 2 that causes the maximum permissible levels specified in that Schedule to be exceeded,

unless he holds a permit to do so.

(2) Notwithstanding subrule (1), the Authority may at any time, by notice, require the operator to apply for a permit or a variation of his permit pursuant to a notice of operation changes under rule 21.

(3) An operator who receives a notice under subrule (2) shall comply with the requirements of that notice.

Permit application.

**11.** (1) An operator who is required under rules 9 and 10 to obtain a permit shall apply to the Authority.

(2) An application under subrule (1) for a permit shall—

*(a)* be in the approved form and accompanied by the prescribed fee;

*(b)* include the following information unless otherwise directed by the Authority:

(i) where the applicant is an individual, the name and mailing address of the individual;

(ii) where the applicant is a registered company, the registered corporate name, the names of directors, the registered address, a copy of the Registrar General's Certificate, the name

of the agent or authority applying on behalf of the company and the mailing address of the facility;

(iii) where the applicant is an entity other than a registered company, including a trust, an unincorporated association, a partnership or a governmental entity, the name of the entity, the names of directors, if any, the registered address of the entity, the name and position of the person applying on behalf of the applicant and the mailing address of the facility;

(iv) the location of the emitter facility, including town or village, district, street name and lot number and where applicable, UTM co-ordinates;

(v) the topography, distances to nearby residential, commercial or other industrial operations and the location of any known sensitive human, animal or plant receptors within one kilometre beyond the boundary of the facility;

(vi) a plan of the facility, drawn to scale, showing all structures on the property including elevations of all structures;

(vii) stack dimensions, exit temperatures and velocities, stack elevations, stack emissions results, ambient air quality data in the vicinity of the facility and any other facility parameters that would be required by the Authority to verify the impact of air pollutants on the ambient standards;

(viii) a description of the receiving environment into which the air pollutant is released;

(ix) a detailed description of the process or activity generating the release;

(x) details on the existing or proposed facility operations, including the start up, shut

down, scheduled maintenance and safety measures of the facility;

(xi) the age of the facility and its components;

(xii) the raw materials, utility requirements and intermediate and end products of the facility;

(xiii) a map with a scale of one in twenty-five thousand or any other appropriate scale required by the Authority showing the location of any existing or proposed release structures and the location of any release;

(xiv) existing or proposed release rates;

(xv) monitoring data which may indicate characteristics of release, including method of release, quantities, conditions and concentrations of constituents;

(xvi) an indication of whether the facility is an existing facility or a proposed facility;

(xvii) an indication of whether other approvals from any other governmental entity are required under written law and whether such approvals have been applied for or obtained;

(xviii) copies of existing approvals relating to the activity that have been granted to the applicant by the Authority or any other governmental entity;

(xix) the proposed or actual dates of construction commencement, construction completion, commencement of operation and project completion of the proposed facility;

(xx) a copy of any Environmental Impact Statement or Assessment Report or environmental study which pertains to the facility;

(xxi) an account of the measures undertaken to avoid, mitigate or remedy any air pollution caused by the operation of the facility; and

(xxii) any other relevant information required by the Authority.

(3) Where the application is made on behalf of a company, the applicant shall supply the Authority with a copy of the Registrar General's Certificate.

(4) Where an applicant under subrule (1) does not hold a registration certificate issued under Part II, he shall first apply for and obtain such certificate in accordance with that Part.

Acknowledgement of receipt of application.

**12.** (1) The Authority shall, within twenty working days of receipt of an application for a permit under rule 11, issue to the applicant a notice in writing—

*(a)* acknowledging receipt of the application; and

*(b)* where appropriate, notifying the applicant of any omission of information required under the approved form and specifying a time for submission of such information.

(2) The Authority may at the request of the applicant, allow an extension of the time specified under subrule (1)*(b)*.

Notice of consideration of application.

**13.** (1) Where the Authority decides to commence the consideration of a permit application, it shall issue a written notice to the applicant advising of the date from which the application shall be considered.

(2) The Authority may prioritise the consideration of applications for permits on the basis of any or a combination of the following considerations:

*(a)* actual or potential impacts of the emissions of air pollutants by the emitter facility to human health or the environment;

*(b)* the quality, condition or concentration of emitted pollutants;

*(c)* the proximity of the emitter facility to sensitive human, animal or plant receptors;

*(d)* the cumulative impact of the operation of the facility when considered in combination with emissions from other sources in the vicinity;

*(e)* the extent to which the maximum permissible levels in Schedule 1 or Schedule 2 are exceeded; and

Schedules 1 and 2.

*(f)* any other consideration as may be required by the Authority.

Further information.

**14.** (1) The Authority may at any time during the consideration of an application, request additional information from—

*(a)* the applicant;

*(b)* a person who may be or is likely to be affected by the grant of a permit;

*(c)* a Local Authority or any other governmental entity; or

*(d)* any other source that the Authority considers appropriate,

and may request that such additional information be provided within a specified time.

(2) Where the Authority receives information under subrule (1)*(b)*, *(c)* or *(d)*, the Authority shall—

*(a)* forward such information to the applicant; and

*(b)* request the applicant to submit a response within a specified time.

(3) Where during the consideration of an application under these Rules, the applicant becomes aware that—

*(a)* in the application or in a report to the Authority, he has failed to submit any relevant facts or has submitted incorrect information; or

*(b)* there is any change affecting the accuracy of any information provided to the Authority,

the applicant shall immediately notify the Authority and submit to the Authority, the relevant facts and correct information.

(4) The Authority may, during the consideration of an application, direct the applicant to—

*(a)* conduct or participate in a public consultation in such manner as specified by the Authority;

*(b)* submit a transcript of any proceedings arising out of such consultation within such time frame as prescribed by the Authority; and

*(c)* conduct a human health and ecological risk assessment and submit the results thereof within such time as prescribed by the Authority.

(5) The Authority may, at the written request of the applicant, extend the time specified under subrules (1), (2)*(b)* and (4).

Refusal for failure to provide information.

**15.** Where the applicant does not supply the information requested under rule 12(1)*(b)* or 14(1)*(a)* within the time specified by the Authority therein, or any other information as may be required by the Authority within a specified time, the Authority may refuse the application.

Release of air pollutants during determination of permit application.

**16.** Where an operator of a registered emitter facility applies for a permit he shall not continue emitting the air pollutants to be governed by the permit pending the grant of a permit unless the Authority is satisfied that the emissions do not create a clear and imminent danger of acute or chronic effects or harm to the environment.

Grant or refusal of permit.

**17.** (1) The Authority shall, within ninety working days of issuing a notice of its decision to commence consideration of an application for a permit under rule 13 and upon receipt of any further information requested, grant or refuse to grant a permit to the applicant.

(2) Where the Authority considers that it will be unable to make a determination whether to grant or refuse a permit under rule 13 within the period specified under subrule (1) it shall, before the expiry thereof, notify the applicant in writing of a date by which the determination will be made and the reasons thereof.

Duration of permits and annual fee.

**18.** (1) Unless varied, suspended or revoked by the Authority, a permit granted under these Rules shall be valid for a period specified therein but in no case shall the period exceed five years.

(2) Where a permit is granted under these Rules, the operator shall pay the prescribed annual fee.

Contents of permit.

**19.** (1) The Authority shall set out in each permit—

*(a)* the air pollutants permitted to be released; and

*(b)* the quantity, conditions and concentrations of the air pollutants that the operator may release.

(2) Notwithstanding rule 10(1)*(b)* the Authority may, for the purposes of subrule (1)*(b)*, give priority to meeting the standards specified in Schedule 1 over the standards specified in Schedule 2.

Schedule 1.

Schedule 2.

Conditions of permit.

**20.** (1) The Authority may include terms or conditions in any permit, that—

*(a)* all reasonable steps be taken to—

(i) avoid all adverse environmental impacts which could result from the release of air pollutants from the facility;

(ii) minimise any adverse environmental impact where the avoidance is impractical;

*(b)* reduction targets as determined by the Authority be met in respect of releases of air pollutants;

*(c)* the monitoring of air pollutants be conducted in accordance with the methods specified in the permit;

*(d)* monitoring equipment as specified by the Authority be installed, used and maintained;

*(e)* records of all monitoring, including—

(i) all calibration and maintenance records;

(ii) all original strip chart or electronic recordings for continuous monitoring of instrumentation;

(iii) copies of all reports required by the permit;

(iv) records of all data used to complete the application for the permit; and

(v) results of all modelling or calculations,

be retained for a period specified by the Authority;

*(f)* records of monitoring information shall include where applicable—

(i) the date, exact place and time that samples or measurements were taken and the names and contact information of individuals who took the samples or measurements;

(ii) the date or dates on which analyses were performed and the names and contact information of the individuals who performed the analyses;

(iii) the analytical techniques or methods used; and

(iv) the status of the operation of the facility including planned and unplanned start up, shut down, scheduled maintenance, safety measures, production levels and achievement of design capacity;

*(g)* all facilities and systems of treatment and control which are installed and used by the holder of a permit to achieve compliance with the permit are properly operated and maintained at all times;

*(h)* the following are carried out and maintained as determined by the Authority at all times to achieve compliance with any term or condition of the permit:

(i) best management practices;

(ii) emergency response plans and procedures;

(iii) pollution prevention measures;

(iv) laboratory controls;

(v) quality assurance procedures; and

(vi) back-up or auxiliary facilities;

*(i)* it is furnished with any information which it may request to determine whether there is compliance with the permit and if cause exists for varying, suspending or revoking the permit;

*(j)* it, upon request, is furnished with copies of records required to be kept by the operator;

*(k)* all instances of anticipated non-compliance with any term or condition of the permit be reported by the operator to the Authority in accordance with rule 21, including any planned changes in the start up, shut down, scheduled maintenance or safety measures of the facility which may result in non-compliance;

*(l)* all instances of unanticipated non-compliance with any term or condition of the permit be reported by the operator to the Authority—

(i) verbally, where there is a threat or is likely to be a threat to human health or the environment, immediately upon becoming aware of the circumstances of the non-compliance, indicating the anticipated manner in which it may endanger human health or the environment;

(ii) verbally, where there is no threat to human health or the environment, within seven working days of the time that he became aware or ought to have become aware of the circumstances of the non-compliance;

(iii) in writing, and submitted within seven working days of the initial verbal report and the written report shall—

(A) contain a description of the non-compliance, its causes and the period of non-compliance including exact dates and times, the response, clean-up and countermeasures taken; or

(B) indicate the anticipated time during which non-compliance is expected to continue and why compliance cannot be achieved; and

*(m)* any other term or condition as may be specified by the Authority.

(2) Where the emitter facility contains more than one stack, the operator of an emitter facility may request, or the Authority may require, that the bubble approach be used to regulate the overall impact of emissions from the facility.

Notice of operation changes after grant of permit.

**21.** (1) An operator shall notify the Authority in writing of the cessation of the operation of the facility in respect of which the permit has been issued, within twenty-one working days of the event and pay the prescribed fee.

(2) An operator shall notify the Authority in writing of any proposed facility expansion, production increase, or process modification which shall result in—

*(a)* the release of air pollutants not authorised under the permit; or

*(b)* an increase in the quantity or concentration of one or more air pollutants in excess of the levels permitted under the permit,

at least ninety working days prior to the change and pay the prescribed fee.

(3) The notice in subrule (2) shall—

*(a)* indicate the proposed characteristics of air pollutant including the method of release, location of emission sources, flow rate, quantity, conditions and concentrations of constituents; and

*(b)* contain a map or other illustration showing the proposed location of any proposed release structure.

Change of legal status after grant of permit.

**22.** Where a holder of a permit—

*(a)* dies;

*(b)* is declared bankrupt;

*(c)* transfers ownership of the facility;

*(d)* goes into liquidation or receivership; or

*(e)* becomes a party to an amalgamation,

the holder of the permit or where applicable, his agent or legal personal representative shall, within twenty working days, give the Authority notice in writing thereof.

Variation of permit.

**23.** (1) The Authority may vary a permit—

*(a)* on its own initiative subject to subrule (7); or

*(b)* on the application of the holder of a permit.

(2) Notwithstanding subrule (1), the Authority may, pursuant to the notice of operation changes under rule 21(2), require the operator to apply for a variation of the permit.

(3) An operator who receives a notice under subrule (2) shall comply with the requirements of that notice.

(4) An operator may apply to the Authority for a variation of his permit.

(5) An application under this rule shall be made in the approved form and accompanied by the prescribed fee.

(6) Where an operator makes an application under this rule to vary—

*(a)* the specified methods of sampling, preservation and analysis;

*(b)* the quantity or concentration of air pollutants released from the facility; or

*(c)* the frequency of monitoring,

the application shall be supported by scientific and economic reasons.

(7) The Authority shall not vary a permit on its own initiative under subrule (1)*(a)* unless it has—

*(a)* given written notice to the operator that it intends to do so;

*(b)* specified in the notice the reasons for its intention to do so;

*(c)* given the operator five working days from the date of the service of the notice to make submissions in relation to the intended variation, suspension or revocation; and

*(d)* taken into consideration any submissions made by the operator.

(8) The Authority may, at the request of the holder of the permit, extend the time specified in subrule (7)*(c)*.

(9) The Authority shall take into consideration any submissions made by the holder of the permit within five working days of service of the written notice under subrule (7) and may withdraw or uphold its decision accordingly.

(10) The Authority may vary a permit under subrule (1)*(a)*—

*(a)* where it appears to the Authority that an emergency has occurred; or

*(b)* where the Authority considers it appropriate to do so.

(11) Where the Authority varies a permit under subrule (1), it shall issue to the holder of a permit an amended permit.

(12) Subject to rules 15, 16 and 17, the Authority shall, within ninety working days of receipt of the application for a variation under subrule (2), determine whether a permit shall be varied.

(13) Where the Authority considers that it will be unable to make a determination within the period specified in this rule, it shall before the expiration of that period, notify the applicant in writing of a date by which the determination shall be made.

(14) The Authority shall not approve an application under subrule (2) where the concentration of the permitted substance will cause an increase in its concentration in the ambient air such that the resulting level will cause acute or chronic effects or significant harm to the environment.

Transfer of permit.

**24.** (1) An operator shall not assign or transfer his permit to any person without the written consent of the Authority.

(2) The Authority may, on the application of an operator, transfer the permit of the operator to another person.

(3) An application to transfer a permit shall be made in the approved form and accompanied by the prescribed fee.

(4) An application for the transfer of a permit shall contain—

*(a)* where the proposed transferee is an individual, the name and address of the proposed transferee;

*(b)* where the proposed transferee is a registered company—

(i) the registered corporate name;

(ii) the names of the directors;

(iii) the registered address of the company;

(iv) the name and position of the person submitting the request on behalf of the registrant;

(v) the mailing address of the facility; and

(vi) a copy of the Registrar General's Certificate;

*(c)* where the proposed transferee is an entity other than a registered company, including a trust, an unincorporated association, a partnership or a governmental entity—

(i) the name of the entity;

(ii) the names of the directors, if any;

(iii) the registered address of the entity;

(iv) the name and the position of the person submitting the application on behalf of the proposed transferee; and

(v) the mailing address of the facility;

*(d)* the signature of the proposed transferee and the holder of a permit; and

*(e)* such other particulars as the Authority may require.

(5) An application to transfer a permit shall be accompanied by the permit which is to be transferred.

(6) Subject to rules 16, 17 and 18, the Authority shall, within thirty working days of receipt of an application under this rule, approve or refuse the application.

(7) Where the Authority approves an application for a transfer under this rule, the Authority shall—

*(a)* endorse on the permit the date on which the application was approved and the effective date of the transfer; and

*(b)* substitute the name on the permit with that of the transferee.

Renewal of permit.

**25.** (1) Where an operator wishes to renew his permit, he shall submit an application for the renewal of the permit to the Authority in the approved form and pay the prescribed fee.

(2) An application for the renewal of a permit shall be made at least ninety working days before the expiration of the permit.

(3) Subject to rules 15, 16 and 17, the Authority shall, within ninety working days of receipt of an application under this rule, approve or refuse the application.

(4) Where the Authority considers that it will be unable to make a determination within the period specified in this rule it shall, before the expiration of that period, notify the applicant in writing of a date by which the determination shall be made and the permit shall, notwithstanding its expiration, be deemed to continue in force pending the determination of the application.

(5) Where the Authority renews an application under this rule, the permit shall be deemed effective from the anniversary date on which it was granted.

(6) A permit renewed under this rule shall be valid for a period specified therein but in no case shall the period exceed five years.

(7) An operator whose permit has been renewed shall pay the prescribed annual fee.

(8) The Authority may refuse an application under this rule where the operator has violated any term or condition of his permit.

(9) Where an application for renewal under this rule is refused by the Authority, the release of any air pollutant, which causes the maximum permissible levels specified under Schedule 1 or Schedule 2 to be exceeded, shall cease from the date specified in the notice.

Schedule 1. Schedule 2.

Revocation of cancellation of permit.

**26.** (1) Subject to rule 28, the Authority may revoke or cancel a permit where it determines that—

*(a)* the continuation of the release authorised by the permit would result in acute or chronic effects or harm to the environment;

*(b)* the operator has made a misrepresentation or wilful omission in obtaining the permit or in any report submitted to the Authority;

*(c)* the operator has violated any term or condition of the permit;

*(d)* the facility for which the permit has been issued has not been in operation for a period of twelve consecutive months; or

*(e)* there has been any other change in circumstances relating to the permit that requires a permanent reduction in the release authorised by the permit.

(2) The revocation or cancellation of a permit under this rule shall be effective from the date specified in the notice of revocation or cancellation under rule 29*(e)*.

Suspension of permit.

**27.** (1) Subject to rule 28, the Authority may suspend a permit if it determines that—

*(a)* acute or chronic effect or harm to the environment has resulted from or is about to be caused by the release authorised by the permit;

*(b)* the operator has violated any term or condition of the permit;

*(c)* a situation specified in rule 15 has transpired; or

*(d)* there has been any other change in circumstances relating to the permit that requires either a temporary or permanent reduction in the release.

(2) Where a permit is suspended under this rule, the Authority, in suspending it or at any time while it is suspended, may require the operator to take such measures to deal with or avert the harm as the Authority considers necessary.

Notice of intention to suspend, revoke or cancel a permit.

**28.** (1) The Authority shall not suspend, revoke or cancel a permit unless it has—

*(a)* given written notice to the operator that it intends to do so;

*(b)* specified in the notice the reasons for its intention to do so;

*(c)* given the operator five working days from the date of the service of the notice of its intention to suspend, revoke or cancel, to make submissions in relation to the intended suspension, revocation or cancellation; and

*(d)* taken into consideration any submissions made by the holder of the permit.

(2) The Authority may, at the request of the operator, extend the time specified in subrule (1)*(c)*.

(3) Notwithstanding subrule (1), the Authority may without notice, suspend, revoke or cancel a permit, where it determines that there is clear and imminent danger which may cause acute or chronic effects or harm to human health or the environment and the reasons for the suspension or revocation shall be served on the operator within five working days of the decision.

(4) The Authority shall take into consideration any submissions made by the operator within five working days of service of its reasons under subrule (3) and may withdraw or uphold its decision accordingly.

Notice of decision of Authority.

**29.** The Authority shall, by written notice, inform the applicant or the operator, as the case may be, of the following decisions in relation to a permit:

*(a)* the refusal of an application for a permit under rule 17;

*(b)* the refusal of an application for variation under rule 23;

*(c)* the refusal of an application for a transfer under rule 24;

*(d)* the refusal of an application for a renewal under rule 25(8);

*(e)* the revocation or cancellation of a permit under rule 26;

*(f)* the suspension of a permit under rule 27; and

*(g)* the effective date of the notice.

Appeals to the Commission.

**30.** An applicant or operator who is aggrieved by a decision of the Authority mentioned in rule 29, may appeal to the Commission.

**PART IV**

**MISCELLANEOUS**

Notice of requirement to conduct air quality assessment.

**31.** (1) Every operator of a registered emitter facility, shall, at any time after receipt of a registration certificate, where the Authority so directs, conduct an air quality assessment in accordance with a term of reference pursuant to subrule (2).

(2) Where the Authority has determined that an air quality assessment should be undertaken by an operator in accordance with subrule (1), the Authority shall, by written notice, require the operator to conduct an air quality assessment and shall—

*(a)* within sixty working days of the service of the notice, consult with the operator on the preparation of the terms of reference and prepare the final terms of reference for the conduct of the air quality assessment; and

*(b)* notify the operator in writing that the terms of reference is available for collection at the Authority's office before a specified date, upon payment of the prescribed fee.

(3) The terms of reference referred to at subrule (2) may—

*(a)* specify the qualifications of persons conducting the air quality assessment;

*(b)* specify the period within which an air quality assessment shall be submitted to the Authority; and

*(c)* include any other terms as the Authority considers appropriate.

(4) An operator who receives a notice under subrule (2) shall comply with the requirements of such notice.

(5) After submission of an air quality assessment, an operator shall, on the direction of the Authority, monitor emissions and submit reports and any other information at such times as the Authority may reasonably specify.

Determination of air quality.

**32.** (1) For the purpose of these Rules, air quality shall be determined through the use of any one or any combination of the following methods which may be approved by the Authority:

*(a)* measurement of actual chemical concentrations;

*(b)* measurements of parameters that represent chemical constituents;

*(c)* engineering calculations;

*(d)* modelling of meteorological and pollutant dispersion characteristics; or

*(e)* any other method as determined by the Authority.

(2) The Authority in approving any method under subrule (1) shall consider—

*(a)* the need for accuracy;

*(b)* the economic constraints of the parties; and

*(c)* access to appropriate monitoring locations.

Emergency procedures.

**33.** Where an emergency occurs, the operator of a registered emitter facility shall—

*(a)* immediately implement the emergency response plan for the facility;

*(b)* take all reasonable measures to ensure that all fires, explosions and releases do not occur, spread or recur;

*(c)* take all reasonable measures to reduce the emissions of air pollutants and to reasonably protect human health and the environment;

*(d)* provide adequate notice of the emergency to the community and appropriate governmental entities;

*(e)* immediately notify the Authority of the nature of the emergency, the specific location and the processes involved; and

*(f)* within seven working days from the start of an emergency, submit to the Authority a written report stating—

(i) the cause of the emergency;

(ii) the duration and period of time of the emergency;

(iii) whether or not the emergency has been contained and if not, the anticipated time by which the emergency is expected to be contained;

(iv) the steps taken or intended to be taken to prevent, reduce or eliminate the recurrence of the emergency;

(v) the amounts and periods of release of the materials; and

(vi) any known or suspected unauthorised releases during the emergency.

Register of Emitter Facilities.

**34.** (1) The Authority shall establish and maintain a register of emitter facilities registered under Part II which shall be called the "Register of Emitter Facilities" and which—

*(a)* shall be open to the public; and

*(b)* may be kept in any form, including electronic form.

(2) Subject to rules 35 and 36, the Register of Emitter Facilities shall contain a copy of—

*(a)* every request for registration under these Rules;

*(b)* every registration certificate;

*(c)* every request and terms of reference for an air quality assessment and the results of every air quality assessment under these Rules;

*(d)* every application for a permit;

*(e)* all additional information supplied pursuant to rules 12(1)*(b)* and 14; and

*(f)* every permit including a renewed, transferred or varied permit.

(3) The Authority shall, at the request of any person in the approved form and upon payment of the prescribed fee, supply an extract from the Register of Emitter Facilities.

Removal from the Register of Emitter Facilities.

**35.** The Authority may strike the name of an operator and his facility off the Register of Emitter Facilities where—

*(a)* the registered emitter facility has not been in operation for a period of twelve consecutive months; or

*(b)* his permit has been revoked or cancelled pursuant to rule 26.

Confidentiality claims.

**36.** (1) An operator may, upon payment of the prescribed fee, assert a claim, giving reasons, in accordance with the form approved by the Authority, that any of the information supplied to the Authority under these Rules—

*(a)* is a trade secret;

*(b)* is confidential business information; or

*(c)* if disclosed, would be contrary to the public interest,

and may request that such information be omitted from the Register of Emitter Facilities.

(2) Where the Authority receives a claim under subrule (1), it may request that the operator provide additional information in respect of such claim within a specified time.

(3) The Authority shall reject a claim under this rule where—

*(a)* the operator has not disclosed the basis for the claim;

*(b)* the basis of the claim which is disclosed is determined to be invalid; or

*(c)* it is determined that the public interest in disclosing the information clearly outweighs any prejudice to the applicant.

(4) An operator who is aggrieved by the rejection of a claim under subrule (3) may appeal to the Commission.

(5) The Authority shall omit the information from the Register of Emitter Facilities where—

*(a)* the Authority upholds the claim;

*(b)* the claim is pending appeal to the Commission; or

*(c)* the claim is upheld on an appeal to the Commission.

(6) A determination under this rule shall be made within twenty working days of receipt of an application.

(7) Where the Authority requests additional information under subrule (2), a determination shall be made within twenty working days of receipt of such information.

Exemption from requirement to hold permit.

**37.** (1) The Authority may exempt an operator from the requirement to hold a permit where it determines that the operator has demonstrated to the satisfaction of the Authority that the emitter facility has at least two consecutive years—

*(a)* complied with the terms and conditions of his permit; and

*(b)* not caused the maximum permissible levels of Schedule 1 and Schedule 2 to be exceeded.

Schedule 1. Schedule 2.

(2) An operator to whom an exemption is granted under subrule (1) shall comply with rule 10.

Effective date of notice.

**38.** For the purpose of these Rules, a notice is effective from the date of its service.

Service of notices.

**39.** (1) Any notice issued by the Authority under these Rules shall be served in the case of—

*(a)* an individual, by sending it by registered mail to the last known address of that individual;

*(b)* a registered company, by sending it by registered mail to its registered office; or

*(c)* any business other than a registered company, including a trust, unincorporated association, partnership or governmental entity, by sending it by registered mail to its last known address.

(2) For the purposes of subrule (1), service shall be deemed effective on the seventh day after posting.

Breach of environmental requirement.

**40.** Any breach of any of these Rules shall be a breach of an environmental requirement and shall be enforceable under Part VI of the Act.

Certificate of Environmental Clearance.

**41.** Notwithstanding the grant of a Certificate of Environmental Clearance under the Act, an operator shall meet the requirements of these Rules.

Application of Schedule 2.

**42.** (1) Schedule 2 shall not apply to any operational release from vehicles or any release from vehicles used by a governmental entity for the purposes of insect vector control.

(2) For the purposes of this Rule, "operational release" means any release of pollutant from a vehicle originating from the internal combustion of fuel in the engine when used to provide the motive power for the vehicle but does not include pollutant releases from activities occurring on the vehicle not associated with the generation of motive power for the vehicle.

Savings.

Ch. 12. No. 4.

**43.** Nothing in these Rules shall affect the operation of—

*(a)* the Public Health Ordinance;

*(b)* the common law regarding nuisance; and

*(c)* any other written law.

Rules 2, 10, 13, 19, 25, 37.

## SCHEDULE 1

## MAXIMUM PERMISSIBLE LEVELS FOR AMBIENT AIR

| No. | Substance | Short-Term Maximum Permissible Levels | | Long-Term Maximum Permissible Levels | |
|---|---|---|---|---|---|
| | | Maximum Permissible Levels | Averaging Time | Maximum Permissible Levels | Averaging Time |
| **Particulates** | | | | | |
| 1 | Total Suspended Particulate (TSP) | 150 $\mu$g/m$^3$ | 24 hours | | |
| 2 | $PM_{10}$ | 74 $\mu$g/m$^3$ | 24 hours | 50 $\mu$g/m$^3$ | 1 year |
| 3 | $PM_{25}$ | 65 $\mu$g/m$^3$ | 24 hours | 15 $\mu$g/m$^3$ | 1 year |
| **Non-Metallic Inorganic Substances** | | | | | |
| 4 | Carbon monoxide (CO) | 100 000 $\mu$g/m$^3$ | 15 minutes | | |
| | | 60 000 $\mu$g/m$^3$ | 30 minutes | | |
| | | 30 000 $\mu$g/m$^3$ | 1 hour | | |
| | | 10 000 $\mu$g/m$^3$ | 8 hours | | |
| 5 | Nitrogen dioxide ($NO_2$) | 200 $\mu$g/m$^3$ | 1 hour | 40 $\mu$g/m$^3$ | 1 year |
| 6 | Sulfur dioxide ($SO_2$) | 500 $\mu$g/m$^3$ | 10 minutes | 50 $\mu$g/m$^3$ | 1 year |
| | | 125 $\mu$g/m$^3$ | 24 hours | | |
| 7 | Ozone ($O_3$) | 120 $\mu$g/m$^3$ | 8 hours | | |
| 8 | Sulfuric acid ($H_2SO_4$) | 100 $\mu$g/m$^3$ | 30 minutes | | |
| 9 | Hydrogen sulphide ($H_2S$) | 30 $\mu$g/m$^3$ | 30 minutes | | |
| 10 | Ammonia ($NH_3$) | 3600 $\mu$g/m$^3$ | 30 minutes | | |
| 11 | Total fluoride | 1.0 $\mu$g/m$^3$ | 24 hours | 0.4 $\mu$g/m$^3$ | 90 days |
| 12 | Hydrogen chloride (HCI) | 100 $\mu$g/m$^3$ | 30 minutes | | |
| 13 | Chlorine (CI) and its compounds | 300 $\mu$g/m$^3$ | 30 minutes | | |
| 14 | Asbestos (fibres > 5 $\mu$m in length) | 0.04 fibres/cm$^3$ | 24 hours | | |
| 15 | Asbestos (total) | 5 $\mu$g/m$^3$ | 30 minutes | | |
| **Metallic Substances** | | | | | |
| 16 | Cadmium (Cd) and its compounds | 5.0 $\mu$g/m$^3$ of total Cd in free and combined form | 30 minutes | | |

| No. | Substance | Short-Term Maximum Permissible Levels | | Long-Term Maximum Permissible Levels | |
|---|---|---|---|---|---|
| | | Maximum Permissible Levels | Averaging Time | Maximum Permissible Levels | Averaging Time |
| 17 | Mercury (Hg) and its compounds | 1.5 $\mu$g/m$^3$ of total alkyl Hg compounds<br>5.0 $\mu$g/m$^3$ of total Hg in free and combined form | 30 minutes<br>30 minutes | | |
| 18 | Antimony (Sb) and its compounds | 75 $\mu$g/m$^3$ of total Sb in free and combined form | 30 minutes | Sb and its compounds | 75 $\mu$g/m$^3$ of total Sb in free and combined form |
| 19 | Beryllium (Be) Compounds | 0.01 $\mu$g/m$^3$ | 24 hours | | |
| 20 | Lead (Pb) | 10 $\mu$g/m$^3$ of total Pb in free and combined form | 30 minutes | 1.5 $\mu$g/m$^3$<br>0.5 $\mu$g/m$^3$ | 3 months<br>1 year |
| | **Organic Substances** | | | | |
| 21 | Biphenyl ($C_6H_5)_2$) | 60 $\mu$g/m$^3$ | 1 hour | | |
| 22 | Carbon disulfide ($CS_2$) | 330 $\mu$g/m$^3$ | 24 hours | | |
| 23 | Ethylbenzene ($C_6H_5C_2H_5$) | 1000 $\mu$g/m$^3$ | 24 hours | | |
| 24 | Formaldehyde ($CH_2O$) | 65 $\mu$g/m$^3$ | 24 hours | | |
| 25 | Mercaptan (as Methyl Mercaptan-$CH_3SH$) | 20 $\mu$g/m$^3$ | 1 hour | | |
| 26 | Polychlorinated Biphenyls (PCBs) | 0.15 $\mu$g/m$^3$ | 24 hours | 0.035 $\mu$g/m$^3$ | 1 year |
| 27 | Xylenes ($C_6H_4(CH_3)_2$) (isomers and mixture) | 2300 $\mu$g/m$^3$ | 24 hours | | |
| 28 | Total Dioxin and Furans | 0.5pg TEQ/m$^3$ | 24 hours | | |

"$PM_{10}$" means Particulate Matter with an aerodynamic diameter of less than 10 $\mu$m;

"$PM_{2.5}$" means Particulate Matter with an aerodynamic diameter of less than 2.5 $\mu$m;

"ng" means nanogram or one-billionth of a gram which is expressed as 1 x $10^{-9}$ grams in scientific notation; and;

"pg" means picogram or one-trillionth of a gram which is expressed as 1 x $10^{-12}$ grams in scientific notation.

Rules 2, 10, 13, 19, 25, 37, 42.

## SCHEDULE 2

## STACK RELEASE LIMITS

| No. | Substance/Parameter | Maximum Permissible Limits mg/Nm$^3$ |
|---|---|---|
| **Particulate Substance** | | |
| 1 | Particulate matter | 100 mg of particulate matter in each normal cubic metre of residual gases, (adjusted to a basis of 12% $CO_2$ for air emissions from fuel-burning equipment, if required by the specified test method) |
| **Physical Parameter** | | |
| 2 | Opacity | 20 %[1] |
| **Non-Metallic Inorganic Substances** | | |
| 3 | Sulfur dioxide ($SO_2$) | 1000 |
| 4 | Oxides of nitrogen ($NO_2$) | 500 as $NO_2$ |
| 5 | Carbon monoxide (CO) | 1000 |
| 6 | Sulfuric acid ($H_2SO$) mist of sulfur trioxide ($SO_3$) | 100 as $SO_3$ |
| 7 | Hydrogen sulfide ($H_2SO_4$) | 15 |
| 8 | Ammonia ($NH_3$) | 50 |
| 9 | Fluorine (F) and its compounds | 5 as hydrogen fluoride (HF); or 5 as total fluoride |
| 10 | Acids and acid gases, as hydrogen chloride (HCI) | 10 as HCI |
| 11 | Chlorine (CI) and its compounds | 5 as CI |
| **Metallic Inorganic Substances** | | |
| 12 | Lead (Pb) and its compounds | 0.5 as Pb |
| 13 | Antimony (Sb) and its compounds | 5 as Sb |
| 14 | Arsenic (As) and its compounds | 0.8 as As |
| 15 | Cadmium (Cd) and its compounds | 0.05 as Cd |
| 16 | Mercury (Hg) and its compounds | 0.05 as Hg |
| 17 | Heavy metals (other) | 5 as heavy metals (other) |

| No. | Substance/Parameter | Maximum Permissible Limits mg/Nm$^3$ |
|---|---|---|
| | **Organic Substances** | |
| 18 | Volatile Organic Compounds (VOCs) | 20 as VOCs |
| 19 | Dioxins | 0.2 ng TEQ/Nm$^3$ [2] |
| 20 | Furans | 0.2 ng TEQ/Nm$^3$ |

In order to calculate a TEQ, a toxic equivalent factor (TEF) is assigned to each member of the dioxin and dioxin-like compounds category. The TEF is the ratio of the toxicity of one of the

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For the purposes of Schedule 2

[1] Opacity is to be measured by averaging opacity over any six-minute period.

[2] Toxic Equivalent (TEQ) is a calculated value that allows comparisons of the toxicity of different combinations of dioxins and dioxin-like compounds. The two most toxic compounds in the dioxin and dioxin-like compounds category are the comparison points. For example, a mixture weighing 10g with a TEQ of 5g would be as toxic as 5g of either of those compounds.

Compounds in this category to the toxicity of the two most toxic compounds in the category, that is 2, 3, 7, 8-tetracholorodibenzo-p-dioxin (commonly referred to as dioxin) and 1, 2, 3, 7, 8-pentacholorodibenzo-p-dioxin, which are assigned a TEF of 1. TEFs that have been established through international agreements currently range from 1 to 0.0001.

A TEQ is calculated by multiplying the actual grams weight of each dioxin and dioxin-like compound by its corresponding TEF (e.g., 10 grams x 0.1 TEF = 1 gram TEQ) and then summing the results. The number that results from this calculation is referred to as grams TEQ.

For example, consider the following 60g mixture:

10g of compound A, with a TEF of 1
20g of compound B, with a TEF of 0.5
30g of compound C, with a TEF of 0.2

The TEQ of this mixture would be -

(10g x 1) + (20g x 0.5) + (30g x 0.2) = 26g TEQ

This mixture of 60g of various compounds would be as toxic as 26g of either of the two most toxic compounds.

Sampling and analysis to determine compliance with the standards listed in Schedules 1 and 2 shall be in accordance with such methods as are approved by Authority.

Rules 2.

## SCHEDULE 3

## DESIGNATED ACTIVITIES

| No. | Category | Activity | Description |
|---|---|---|---|
| 1. | Food and Agriculture | *(a)* Farming activities on more than 40 ha of land | Aerosol application of pesticides and herbicides. |
| | | *(b)* Commercial Food, Beverage and Agriculture Processing | (i) Beer and Stout<br>(ii) Rum and Other Spirits<br>(iii) Fish Processing of more than 500 kg per day<br>(iv) Milling Operations<br>(v) Rendering Plants<br>(vi) Sugar Manufacturing<br>(vii) Oil and Fat Manufacturing<br>(viii) Miscellaneous Food, Beverage and Agriculture processing of more than 500 kg per day |
| | | *(c)* Commercial and Institutional Food Preparation | Use of equipment that produces grease, vapours, steam, fumes, smoke or odours. |
| 2. | Stationary fuel Combustion | Consumption of Fossil Fuel in Equipment at fixed facilities | (i) Commercial/Industrial/ Institutional Electricity Generation<br>(ii) Commercial Vehicle Repair and Storage Yards<br>(iii) Transport Terminals (sea ports, airports, bus and rail terminals)<br>(iv) Industrial Boilers |
| 3. | Wood Products | *(a)* Pulp and Paper | Pulp and Paper Production |
| | | *(b)* Wood | (i) Plywood/Particle Board Manufacturing<br>(ii) Commercial Wood Treatment<br>(iii) Commercial Wood Working and Furniture Manufacturing<br>(iv) Saw Milling |

| No. | Category | Activity | Description |
|---|---|---|---|
| 4. | Petroleum and Related Industries | *(a)* Oil and Gas | (i) LNG Processing<br>(ii) LPG Processing<br>(iii) Lube Oil Manufacture<br>(iv) Natural Gas Processing<br>(v) Oil and Natural Gas Production<br>(vi) Petroleum Refineries<br>(vii) Waste Oil Refineries<br>(viii) Fuel storage and transfer facilities<br>(ix) Oil and Natural Gas Tank Farms<br>(x) Bio-Fuel Production |
| | | *(b)* Petrochemicals | Petrochemical Production |
| | | *(c)* Vehicle Service Stations | Dispensing of Fuel |
| 5. | Chemical Products Industries | *(a)* Fibres Production | (i) Acrylic Fibres/Modacrylic Fibres Production<br>(ii) Rayon Production<br>(iii) Spandex Production |
| | | *(b)* Mineral Products | (i) Alumina Processing<br>(ii) Production of Asphalt and Asphalt Products<br>(iii) Ceramics Manufacture<br>(iv) Chromium Refractories Production<br>(v) Clay Products Manufacturing<br>(vi) Concrete Batch Plants<br>(vii) Concrete Blocks and Tiles<br>(viii) Portland Cement Manufacturing<br>(ix) Taconite Iron Ore Processing<br>(x) Fibreglass Manufacturing and Processing<br>(xi) Quarries<br>(xii) Sand and Aggregate Stockpiling<br>(xiii) Manufacture of Glass, Stone, Gypsum, Concrete or Plaster Products |

## SCHEDULE 3—*Continued*

## DESIGNATED ACTIVITIES

| No. | Category | Activity | Description |
|---|---|---|---|
| | | *(c)* Chemical Production | Organic Chemicals Production and Processes (inclusive of photographic chemicals, glass and explosives production and pharmaceutical processing) |
| | | *(d)* synthetic organic Chemical Manufacture | Manufacture of Synthetic Organic Chemicals |
| 6. | Metal Processing | *(a)* Ferrous Metals | (i) Coke By-Product Plants<br>(ii) Direct Reduced Iron<br>(iii) Ferroalloys Production<br>(iv) Integrated Iron and Steel Manufacturing<br>(v) Iron Carbide Production<br>(vi) Iron Foundries<br>(vii) Non-Stainless Steel Manufacturing - Electric Arc Furnace (EAF) Operation<br>(viii) Roofing Sheets Manufacture<br>(ix) Stainless Steel Manufacturing - Electric Arc Furnace (EAF) Operation<br>(x) Steel Foundries<br>(xi) Steel Mills<br>(xii) Steel Pickling - HCI Process<br>(xiii) Iron Sintering<br>(xiv) Steel Manufacturing |
| | | *(b)* Non-Ferrous Metals | (i) Lead Acid Battery Manufacturing<br>(ii) Metal Foundries, Fabricators and Assembly<br>(iii) Primary and Secondary Aluminium Production<br>(iv) Primary and Secondary Copper Production<br>Primary and Secondary Lead Smelting<br>(v) Primary Magnesium Refining<br>(vi) Secondary Zinc Production |

| No. | Category | Activity | Description |
|---|---|---|---|
| 7. | Health Sector | Processes related to the Health Services Sector | (i) Crematoriums and Cremation Sites<br>(ii) Medical Waste Incineration |
| 8. | Polymers and Resins | Manufacture of Polymers and Resins | (i) Polymer and Resin Production<br>(ii) Polymer and Resin Reconstitution |
| 9. | Inorganic Chemical Manufacturing | *(a)* Manufacture of Inorganic Chemicals | (i) Ammonium Sulphate ($NH_4SO_4$) Production<br>(ii) Antimony Oxides Manufacturing<br>(iii) Bleach Manufacture<br>(iv) Chlorine Production<br>(v) Chromium Chemicals Manufacturing<br>(vi) Fume Silica Production<br>(vii) Acid Production (such as Hydrochloric, Sulphuric, Nitric and Phosphoric acids-HCI, $H_2SO_4$, $HNO_3$, $N_3PO_4$)<br>(viii) Hydrogen Fluoride (HF) Production Paint and Dyes Manufacture<br>(ix) Phosphate Fertilisers Production<br>(x) Production of Matches<br>(xi) Quatemary Ammonium Compounds Production<br>(xii) Cyanide Chemicals Manufacturing (such as Sodium Cyanide (NaCN), Hydrogen Cyanide (HCN), Cyanuric Chloride $(CNC)_3$<br>(xiii) Pharmaceutical processing |
| | | *(b)* Storage and Distribution of Inorganic Chemicals | Storage and Transfer Facilities |
| 10. | Industrial Cooling | Use of Industrial Cooling Equipment | Industrial Cooling Tower |

## SCHEDULE 3—*Continued*

## DESIGNATED ACTIVITIES

| No. | Category | Activity | Description |
|---|---|---|---|
| 11. | Industrial/ Commercial Electroplating | Metal Coating | (i) Chromic Acid Anodizing<br>(ii) Decorative Chromium Electroplating<br>(iii) Hard Chromium Electroplating<br>(iv) Industrial Gases Processing |
| 12. | Industrial/ Commercial Cleaning | *(a)* Solvents Use | (i) Dry Cleaning Machines<br>(ii) Commercial Sterilization Facilities<br>(iii) Halogenated Solvent Cleaners |
| | | *(b)* Abrasive Cleaning | Sandblasting Facilities |
| 13. | Coating | Surface Coatings | (i) Manufacture of Industrial/ Commercial surface coating<br>(ii) Auto body Garages and Commercial Aerosol Paint Application Facilities<br>(iii) Commercial Printing |
| 14. | Waste Handling | Waste Treatment and Disposal | (i) Waste Incineration including Cement Kilns burning Waste<br>(ii) Municipal Sewage Treatment Plants<br>(iii) Solid Waste Treatment, Storage and Disposal Facilities (TSDF)<br>(iv) Waste to Energy facilities |
| 15. | Laboratories | Laboratory Operations | Industrial Commercial and Tertiary Education<br>Laboratory Operations |

# AIR POLLUTION (FEES) REGULATIONS

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
2. Interpretation.
3. Fees.
4. Non-refund of fees.
5. Charges exceeding $10,000.00.
6. Change of categorisation.
7. Financial estimate or projection.

**SCHEDULE.**

13/2015.

# AIR POLLUTION (FEES) REGULATIONS

*made under section 96(2)*

Citation.

**1.** These Regulations may be cited as the Air Pollution (Fees) Regulations.

Interpretation.

**2.** (1) In these Regulations—

"air pollutant" has the meaning assigned to it in the Rules;

"emitter facility" means a facility—

*(a)* from which an air pollutant is emitted; and

*(b)* which is used for any activity listed in Schedule 3 of the Rules;

"employee" means any person who has entered into or works under a contract with an employer to do any skilled, unskilled, manual, technical, clerical or other work for hire or reward, whether—

*(a)* the contract is expressed or implied, verbal or in writing, or partly oral and partly in writing; and

*(b)* it is a contract of service or apprenticeship or a contract personally to execute any work or labour,

and includes any other person sub-contracted by that person to do such skilled, unskilled, manual, technical, clerical or other work for hire or reward;

Sub. Leg.

"the Rules" means the Air Pollution Rules.

(2) Subject to subregulations (3) and (4), emitter facilities shall be categorised as either—

*(a)* mini and micro, which comprises not more than five employees, and has less than $250,000.00 in assets and less than $250,000.00 in sales per annum;

*(b)* small, which comprises at least six but not more than twenty-five employees, and has at least $250,000.00 but not more than $1,500,000.00 in assets and at least $250,000.00 but not more than $5,000,000.00 in sales per annum;

*(c)* medium, which comprises at least twenty-six but not more than fifty employees, and has at least $1,500,000.00 but not more than

$5,000,000.00 in assets and at least $5,000,000.00 but not more than $10,000,000.00 in sales per annum; and

*(d)* large, which comprises more than fifty employees and has more than $5,000,000.00 in assets and more than $10,000,000.00 in sales per annum.

(3) Where an emitter facility satisfies any two of the three criteria within the definition of a category under subregulation (2), that emitter facility shall be deemed to fall within that category for the purposes of these Regulations.

(4) Notwithstanding subregulation (3), where an emitter facility meets the criteria for the number of employees and the value of assets for a particular category, but exceeds the upper limit for sales per annum in that category, the emitter facility shall be placed in the highest category within which its sales per annum falls.

Fees. Schedule.

**3.** (1) For the purposes of the Rules, the fees set out in the Second, Third, Fourth and Fifth Columns of the Schedule are payable, where applicable, in respect of the matters set out in the First Column of the Schedule.

(2) The services for which charges are payable under subregulation (1) include the consideration of applications and the use of specialised expertise external to the Authority.

Non-refund of fees.

**4.** Fees paid under these Regulations are non-refundable.

Charges exceeding $10,000.00.

**5.** Charges paid to the Authority pursuant to Item 2 of the Schedule which exceed $10,000.00 shall require a statement of expenses from the Authority identifying the cost items which resulted in the charges exceeding $10,000.00.

Change of categorisation.

**6.** An emitter facility shall not be authorised to change its categorisation unless it demonstrates to the Authority that it satisfies regulation 2(3) for two consecutive years.

Financial estimate or projection.

**7.** In the case of an emitter facility whose financial statements have not yet been audited at the date of the application, the Authority may, for the purpose of categorising the facility, consider data derived by the facility from a bona fide financial estimate or projection.

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## SCHEDULE

| *Item No.* | *First Column* | *Second Column* | *Third Column* | *Fourth Column* | *Fifth Column* |
|---|---|---|---|---|---|
| | Description and Type of Fee | Mini and Micro | Small | Medium | Large |
| 1. | Rule 4(1) and 4(2) Application for Registration Certificate | $120.00 | $2,500.00 | $7,000.00 | $9,500.00 |
| 2. | Rules 5(2)*(c)* and 31(2)*(b)* Collection of terms of reference for air quality assessment | $3,500.00 | $3,500.00 | up to $150,000.00 | up to $600,000.00 |
| 3. | Rule 7(3) Application for transfer of Registration Certificate | $400.00 | $400.00 | $400.00 | $400.00 |
| 4. | Rule 11(2) Application for permit | $200.00 | $4,000.00 | $12,000.00 | $16,000.00 |
| 5. | Rule 18(2) Annual permit fee on grant of permit | $600.00 | $12,000.00 | $35,000.00 | $50,000.00 |
| 6. | Rule 21(1) and 21(2) Application for changes after grant of permit | $500.00 | $500.00 | $500.00 | $500.00 |

| *Item No.* | *First Column* | *Second Column* | *Third Column* | *Fourth Column* | *Fifth Column* |
|---|---|---|---|---|---|
| | Description and Type of Fee | Mini and Micro | Small | Medium | Large |
| 7. | Rule 24(3) Application for transfer of permit | $400.00 | $400.00 | $400.00 | $400.00 |
| 8. | Rule 25(1) Application for renewal of permit | $200.00 | $4,000.00 | $12,000.00 | $16,000.00 |
| 9. | Rule 25(7) Annual permit fee on grant of renewed permit | $600.00 | 150 % of previous permit annual fee | 150 % of previous permit annual fee | 150 % of previous permit annual fee |
| 10. | Rule 34(3) Application for extract from Air Polluters Register | | | | |
| | –Black and white 8½" x 11" | $1.00 | $1.00 | $1.00 | $1.00 |
| | –Black and white 8½" x 14" | $1.00 | $1.00 | $1.00 | $1.00 |
| | –Black and white 11" x 17" | $5.00 | $5.00 | $5.00 | $5.00 |
| | –Colour copies and large maps | Cost + 10% | Cost + 10% | Cost + 10% | Cost + 10% |
| 11. | Rule 36(1) Confidentiality claims | $500.00 | $500.00 | $500.00 | $500.00 |